

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

In the Matter of the Statement of Issues  
Against:

**STEPHEN RENE PAUL**

Respondent.

Case No. 79/14-39s

OAH No. 2014020127

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective May 15, 2015.

DATED: April 8, 2015

  
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TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

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

In the Matter of the Statement of Issues  
Against:

STEPHEN RENE PAUL

Respondent.

Case No. 79/14-39s

OAH No. 2014020127

**PROPOSED DECISION**

This matter was heard by Robert S. Eisman, Administrative Law Judge with the Office of Administrative Hearings, on February 10, 2015, in Los Angeles, California.

Complainant was represented by Heather Vo, Deputy Attorney General.

Stephen Rene Paul (Respondent), was present and represented by William Ferreira, Attorney at Law.

Oral and documentary evidence was received and argument was heard. The record was closed and the matter was submitted for decision on February 10, 2015.

The Administrative Law Judge now finds, concludes and orders as follows:

**FACTUAL FINDINGS**

*Parties*

1. On October 18, 2013, Complainant Patrick Dorais signed the Statement of Issues while acting in his official capacity as Acting Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, State of California.

2. On May 2, 2013, the Bureau received an application from Respondent for a Smog Check Inspector (EO) license and a Smog Check Repair Technician (EI) license. The Bureau denied the application for both licenses on June 10, 2013, and Respondent appealed the denial.

### *Prior Licenses and Disciplinary History*

3. In 1997, the Bureau licensed Respondent as an Advanced Emission Specialist (EA) Technician, license number EA 33901. The license was due to expire on February 28, 2007, but was revoked on November 9, 2006, as detailed in Factual Finding 6, below.

4. In 2002, the Bureau registered Respondent, doing business as Pauls Smog, as an Automotive Repair Dealer, registration number ARD 220521. The registration was due to expire on March 31, 2007, but was revoked on November 9, 2006, as detailed in Factual Finding 6, below.

5. On July 16, 2002, the Bureau licensed Respondent, doing business as Pauls Smog, as a Smog Check, Test Only, Station, license number TC 220521. The license was due to expire on March 31, 2007, but was revoked on November 9, 2006, as detailed in Factual Finding 6, below.

6. On September 5, 2006, effective October 10, 2006, pursuant to the Decision of the Director of the Department of Consumer Affairs (Director) in Case No. 79/06-15, *In the Matter of the Accusation Against Pauls Smog, Stephen Rene Paul, Owner, Automotive Repair Dealer Registration No. AC 220521 and Smog Check, Test Only Station License No. TC 220521 and Stephen Rene Paul, Advanced Emission Specialist Technician License No. EA 033901*, Respondent's Automotive Repair Dealer Registration; Smog, Test Only, Station; and Advanced Emissions Specialist Technician License were revoked. Pursuant to Government Code section 11521, on September 22, 2006, the Director granted a stay of execution of the registration and license revocations until November 9, 2006, which became the new effective date of the Decision. The causes for discipline were established based on evidence that on April 8, 2005, a representative of the Bureau observed Respondent issuing a fraudulent smog compliance certificate through a procedure known as "clean-piping."<sup>1</sup> On May 24, 2005, a representative of the Bureau observed Respondent issuing fraudulent smog compliance certificates for four additional vehicles through clean-piping. These acts involved dishonest, fraudulent and deceitful conduct, thereby establishing cause for discipline and revocation of respondent's Automotive Repair Dealer Registration; Smog, Test Only, Station License; and Advanced Emissions Specialist Technician License. Specifically, causes for discipline were established as follows:

a. Cause existed to impose discipline on Automotive Repair Dealer Registration Number AC 220521, previously issued to Pauls Smog, Stephen Rene Paul, owner, under Business and Professions Code section 9884.7, subdivision (a)(1), for making false statements in issuing certificates of compliance.

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<sup>1</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, "clean-piping" is defined as the use of a sample of exhaust emissions from one vehicle in order to cause the Test Analyzer System or Emission Inspection System to issue a Certificate of Compliance for another vehicle.

b. Cause existed to impose discipline on Automotive Repair Dealer Registration Number AC 220521, previously issued to Pauls Smog, Stephen Rene Paul, owner, under Business and Professions Code section 9884.7, subdivision (a)(4), for issuing certificates of compliance without performing the required smog inspections.

c. Cause existed to impose discipline on Smog, Test Only, Station License Number TC 220521, previously issued to Pauls Smog, Stephen Rene Paul, owner, under Health and Safety Code section 44072.2, subdivision (a), for violating Health and Safety Code sections 44012, subdivision (b) and 44059 based on dishonest conduct.

d. Cause existed to impose discipline on Smog, Test Only, Station License Number TC 220521, previously issued to Pauls Smog, Stephen Rene Paul, owner, under Health and Safety Code section 44072.2, subdivision (c), for failing to comply with California Code of Regulations, title 16, sections 3340.24, subdivision (c); 3340.35, subdivision (c); 3340.41, subdivision (c); and 3340.42, based on dishonest conduct.

e. Cause existed to impose discipline on Smog, Test Only, Station License Number TC 220521, previously issued to Pauls Smog, Stephen Rene Paul, owner, under Health and Safety Code section 44072.2, subdivision (d), for issuing fraudulent certificates of compliance without performing the required smog inspections.

f. Cause existed to impose discipline on Advanced Emission Specialist Technician License Number EA 033901, previously issued to Stephen Rene Paul under Health and Safety Code section 44072.2, subdivision (a), for violating Health and Safety Code sections 44012 and 44059 based on dishonest conduct.

g. Cause existed to impose discipline on Advanced Emission Specialist Technician License Number EA 033901, previously issued to Stephen Rene Paul under Health and Safety Code section 44072.2, subdivision (c), for failing to comply with California Code of Regulations, title 16, sections 3340.24, subdivision (c); 3340.35, subdivision (c); 3340.41, subdivision (c); and 3340.42, based on dishonest conduct.

h. Cause existed to impose discipline on Advanced Emission Specialist Technician License Number EA 033901, previously issued to Stephen Rene Paul under Health and Safety Code section 44072.2, subdivision (d), for issuing certificates of compliance without performing the required smog inspections.

i. Cause existed to impose discipline on any and all automotive repair dealer registrations held by Stephen Rene Paul under Business and Professions Code section 9884.7, subdivision (c), because respondent engaged in a course of repeated and willful violations of the relevant laws and regulations pertaining to automotive repair dealers.

j. Cause existed to impose discipline on any other smog station licenses held by Stephen Rene Paul under Health and Safety Code Section 44072.8.

k. Cause existed to order Respondent to pay reasonable costs of investigation, enforcement and prosecution of the matter under Business and Professions Code section 125.3, which was subsequently determined to be in the amount of \$3,634.50.

7. On May 2, 2013, the Bureau received an application from Respondent for a Smog Check Inspector (EO) license and a Smog Check Repair Technician (EI) license. In his application, Respondent referred to attachments that were included to clarify his past licensure and license discipline, and substantiate completion of required training. The Bureau denied licensure based on Health and Safety Code section 44072.1, subdivisions (c) and (d), for having committed acts that if committed by a licensee, would be grounds for suspension or revocation, and committing acts involving dishonesty, fraud or deceit. The Bureau stated that sufficient rehabilitation must be substantiated before any future license or registration could be issued. (Cal. Code Regs., tit. 16, §§ 3395 and 3395.1.)

#### *Factors in Aggravation*

8. Respondent has a history of prior disciplinary action, as set forth in Factual Finding 6, above. Based on observations made during multiple investigatory surveillance operations in 2005, and Respondent's testimony and admissions, engaging in clean-piping had become part of a pattern of practice under Respondent's previously held registration and licenses. In addition, the underlying activity constituted acts of dishonesty.

9. Related to his prior formal disciplinary action, Respondent engaged in clean-piping for monetary gain. Respondent opened Pauls Smog in 2002. During the first five months of operation, his client base increased each month. Respondent then entered into an arrangement with a third party, whom Respondent identified as Romeo Balboa, to do smog checks of "directed" vehicles, i.e., vehicles identified as having difficulty passing a valid smog check. Respondent started doing clean-piping for these directed vehicles, with the understanding that if he stopped clean-piping, the third party would stop referring vehicles to his shop, thereby resulting in reduced income.

#### *Factors in Mitigation*

10. Prior to applying for new licenses as a Smog Check Inspector (EO) and Smog Check Repair Technician (EI), Respondent completed prerequisite courses, including the Level 2 Inspector training course, Basic Clean Air Car (after Aug. 2008) Course, Advanced Clean Air Car Course (2009), and Advanced Clean Air Car (prior to Aug. 2012) Course. Respondent has current Automotive Service Excellence (ASE) designation certificates as an Automobile Technician and Advanced Level Specialist.

11. Respondent expressed remorse for his past dishonest conduct and that he had "learned his lesson" as a result of the formal disciplinary action, as set forth in Factual Finding 6. Respondent has realized that he can be successful without having to engage in dishonest, fraudulent and deceitful conduct.

12. During both the prior disciplinary proceeding and current hearing, Respondent admitted that he engaged in clean-piping. Respondent testified that he stopped doing clean-piping once he learned the results of the Bureau's investigation in 2005.

13. In his current application for licensure, Respondent is not seeking a license to operate a smog check facility; all work under his license would be done as an employee of a smog check facility's license holder.

### *Rehabilitation*

14. Pursuant to California Code of Regulations, title 16, section 3395, Respondent has taken steps toward his rehabilitation, as follows:

a. While Respondent's past conduct warranted formal discipline, significant time has passed since his Automotive Repair Dealer Registration; Smog, Test Only, Station License; and Advanced Emissions Specialist Technician License were revoked. Specifically, it has been six and one-half (6 ½) years between the revocation of Respondent's registration and licenses (November 2006) and his current application for licensure (May 2013). In addition, it has been approximately nine and three-quarter (9 ¾) years between the time of the underlying acts (May 2005) that resulted in formal discipline of Respondent's registration and licenses and his current administrative hearing (February 2015).

b. During the period between the Bureau's 2005 investigation and revocation of Respondent's Automotive Repair Dealer Registration; Smog, Test Only, Station License; and Advanced Emissions Specialist Technician License, Respondent continued to do smog checks of vehicles, but did not engage in clean-piping. During that period, Respondent discovered that he did not need to engage in clean-piping to run a successful business.

c. Respondent satisfied the requirement that he reimburse the Bureau of Automotive Repair for the costs of investigation, enforcement and prosecution in Accusation Case No. 79/06-15.

d. No evidence was presented to establish that Respondent engaged in any criminal, fraudulent or dishonest activity since the revocation of his Automotive Repair Dealer Registration; Smog, Test Only, Station; and Advanced Emissions Specialist Technician License.

e. Respondent volunteers to assist coaching the basketball team at his teenage son's school.

f. Since the revocation of his registration and licenses, Respondent has worked at his father's smog check facility, approximately four to five hours a day, doing solely administrative work such as preparing invoices, entering information in a data base and mailing correspondence. He also prepares information for his father's bookkeeper.

Respondent has had no other employment. Respondent's family receives income from his wife's employment and payments Respondent receives from the loan he gave to the purchaser of Pauls Smog.

g. Mark Wedell is a retired detective from the Los Angeles County Sheriff's Department who has known Respondent for approximately 27-28 years and testified on Respondent's behalf. In addition, two character reference letters were received in evidence solely as administrative hearsay.

15. The testimony of both Mr. Wedell and Respondent is deemed to be credible.

16. Respondent would comply with all terms and conditions if given a probationary license; no condition would be refused.

## LEGAL CONCLUSIONS

### *Applicable Statutes and Regulations*

1. Business and Professions Code section 477 states, in relevant part:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

2. Business and Professions Code section 480 states, in relevant part:

A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

[¶] . . . [¶]

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

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(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

[¶] . . . [¶]

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

3. Pursuant to Health and Safety Code section 44002, the Department of Consumer Affairs, "shall have the sole and exclusive authority within the state for developing and implementing the motor vehicle inspection program . . ." In addition, for the purposes of administration and enforcement, the Department of Consumer Affairs, and its director, officers and employees, "shall have all the powers and authority granted under the motor vehicle inspection program."

4. Health and Safety Code section 44072.1 states, in relevant part:

The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

[¶] . . . [¶]

(b) Was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act that, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.

(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.

5. California Code of Regulations, title 16, section 3395, subdivision (a) states, in relevant part:

(a) When considering the denial of a license or a registration under section 480 of the Business and Professions Code, the bureau, in evaluating the rehabilitation of the applicant, will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.”

6. California Code of Regulation, title 16, section 3395.1, states:

A person whose registration has previously been refused validation or who has committed acts prohibited by Section 9884.7 of the Act shall, as a condition to any subsequent consideration of an application for validation of his registration, submit evidence which is deemed to be sufficient to establish his rehabilitation. The evidence of rehabilitation shall be submitted in addition to any other information which may be required by the bureau.

*Causes for Discipline*

7. Cause for discipline exists to deny Respondent’s application for a Smog Check Inspector (EO) license, pursuant to Health and Safety Code section 44072.1, subdivisions (c) and (d), and Business and Professions Code section 480, subdivision (a)(3), in that Respondent committed acts while holding Automotive Repair Dealer Registration No. AC 220521; Smog Check, Test Only, Station License No. TC 220521, and Advanced Emission Specialist Technician License No. EA 033901, which were grounds for revocation of said registration and licenses, as set forth in Factual Finding 6, above.

8. Cause for discipline exists to deny Respondent’s application for a Smog Check Inspector (EO) license, pursuant to Health and Safety Code section 44072.1, subdivisions (c) and (d), and Business and Professions Code section 480, subdivision (a)(3), in that Respondent committed acts while holding Automotive Repair Dealer Registration No. AC

220521; Smog Check, Test Only, Station License No. TC 220521, and Advanced Emission Specialist Technician License No. EA 033901, which were grounds for revocation of said registration and licenses, as set forth in Factual Finding 6, above.

9. Cause for discipline exists to deny Respondent's application for a Smog Check Repair Technician (EI) license, pursuant to Health and Safety Code section 44072.1, subdivision (d), and Business and Professions Code section 480, subdivision (a)(2), in that Respondent committed acts involving dishonesty, fraud and deceit, with the intent to substantially benefit himself or another, as set forth in Factual Findings 6 and 9, above.

10. Cause for discipline exists to deny Respondent's application for a Smog Check Repair Technician (EI) license, pursuant to Health and Safety Code section 44072.1, subdivision (d), and Business and Professions Code section 480, subdivision (a)(2), in that Respondent committed acts involving dishonesty, fraud and deceit, with the intent to substantially benefit himself or another, as set forth in Factual Findings 6 and 9, above.

11. Respondent has a history of clean-piping vehicles for monetary gain. Although the Bureau's investigation resulted in identifying five vehicles that were clean-piped, such pattern of practice apparently existed for several years, i.e., during the period he was referred vehicles from the third party. The nature of the violations is of great concern to the Bureau, which relies on its licensed technicians' honesty and integrity. However, the passage of time since the Bureau's investigation in 2005 is significant, Respondent has admitted his wrongdoing, expressed remorse, and understands that he can earn an income without having to rely on dishonesty, fraud and deceit. In addition, Respondent should be commended for taking and passing the courses necessary for licensure as well as his coaching-related activities at his son's school.

12. It is also noted that Respondent had a witness testify on Respondent's behalf and provided two letters attesting to Respondent's character, which lends credibility or substance to Respondent's own testimony regarding his rehabilitation. "Favorable testimony of acquaintances, neighbors, friends, associates and employers with reference to their observation of the daily conduct and mode of living" can be helpful in determining whether a person seeking licensure is rehabilitated. (See, *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317 – 318.) When presented by sources other than Respondent himself, evidence of the extent and effect of a change in attitude and efforts at rehabilitation may carry more weight and be more convincing.

13. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

Respondent must present evidence both of a state of mind and a state of facts showing he has been rehabilitated. (*Resner v. State Bar* (1967) 67 Cal.2d 799, 811; *In re Adreani* (1939) 14 Cal.2d 736, 749.) The state of mind demonstrating rehabilitation is one that has a mature, measured appreciation of the gravity of the misconduct and remorse for the harm caused. Acceptance of responsibility is a necessary prerequisite to establishing rehabilitation.

14. Respondent bears the particular burden of establishing rehabilitation sufficient to compel his licensure. (*In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. at p. 315.) “[O]verwhelming proof of reform’ is necessary.” (*In the Matter of Brown, supra; Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.)

*Disposition*

15. Respondent has submitted convincing evidence of remorse and taken steps to demonstrate rehabilitation that satisfies his burden of producing evidence. However, given the seriousness and extent of Respondent’s past dishonest, fraudulent and deceitful activities for monetary gain, protection of the public health, safety and welfare warrants issuance of probationary licenses such that Respondent can further demonstrate his full rehabilitation.

16. Government Code section 11519, subdivision (b) states,

A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective. The stay of execution provided herein may be accompanied by an express condition that respondent comply with specified terms of probation; provided, however, that the terms of probation shall be just and reasonable in the light of the findings and decision.

17. The Administrative Law Judge considered the factors in aggravation and mitigation, and evidence regarding Respondent’s rehabilitation. The Administrative Law Judge also considered the terms and conditions of probation contained in both the Bureau’s Disciplinary Guidelines, dated May 1997, and the Bureau’s revised draft Disciplinary Guidelines, August 2013. Based on the foregoing, the undersigned prepared a set of terms and conditions of probation that should adequately protect the public while allowing Respondent to further demonstrate his full rehabilitation.

CONFIDENTIAL - UNCLASSIFIED

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## ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

IT IS HEREBY ORDERED that a Smog Check Inspector (EO) license and a Smog Check Repair Technician (EI) license be issued to Respondent Stephen Rene Paul, and immediately revoked. However, the revocation is stayed and Respondent is placed on probation for three years on the following terms and conditions.

1. Obey all Laws

During the period of probation, Respondent shall comply with all federal and state laws, including the statutes, regulations and rules governing all Bureau of Automotive Repair (Bureau) registrations and licenses held by Respondent.

2. Quarterly Reporting

During the period of probation, Respondent shall report either by personal appearance or in writing, as determined by the Bureau on a schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. Report Financial Interests

Respondent shall, within 30 days from the date of a request by the Bureau during the period of probation, report any financial interest, which Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

4. Access to Examine Vehicles and Records

Respondent shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection or repairs, up to and including the point of completion. Respondent shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

5. Tolling of Probation

If, during probation, Respondent should leave the jurisdiction of California to reside or do business elsewhere, or otherwise ceases to do business in the jurisdiction of California, Respondent shall notify the Bureau in writing within 10 days of the dates of departure and return, of the dates of cessation and resumption of business in California.

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All provisions of probation, other than cost reimbursement requirements, restitution requirements and training requirements, and that Respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California and shall not apply to the reduction of this probationary period or to any period of suspension not previously completed. Tolling is not available if during the tolling period business or work relevant to the probationary license or registration is conducted or performed,

#### 6. Violation of Probation

Should Respondent violate or fail to comply with the terms and conditions of probation in any respect, the Director of the Department of Consumer Affairs (Director), after giving notice and an opportunity to be heard, may set aside the stay order and carry out the disciplinary order provided in the decision. If a petition to revoke probation or an accusation is filed against Respondent during probation, or the Bureau has requested that the Attorney General's office prepare a petition to revoke probation or an accusation, the Director shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition or modification of penalty shall be considered while there is an accusation or petition to revoke probation or other penalty pending against Respondent.

#### 7. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with the Bureau, including any period during which suspension of probation is tolled. If Respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by Respondent within 30 days of that date. Should Respondent's registration or license expire during a term of probation, by operation of law or otherwise, upon renewal Respondent's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active license(s) during the period of probation shall also constitute a violation of probation.

#### 8. Completion of Probation

Upon successful completion of probation, Respondent's affected license or licenses will be fully restored or issued without restriction, if Respondent meets all current requirements for registration or licensure and all outstanding fees, monetary penalties owed to the Bureau.

#### 9. License Surrender

Following the effective date of a decision involving a stay of revocation, if Respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request that the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve

the right to evaluate Respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal acceptance of the request, Respondent shall, within 30 calendar days, deliver Respondent's license(s) to the Bureau or its designee and Respondent shall no longer engage in the business for which the license(s) was issued. Upon formal acceptance of the tendered license(s), Respondent shall no longer be subject to the terms and conditions of probation.

The voluntary surrender of a revocation stay shall be considered a disciplinary action and shall become a part of Respondent's license history with the Bureau. Upon acceptance of a surrender, the affected license(s) shall be invalidated or revoked by the Bureau. Respondent may not petition the Director for reinstatement of the surrendered licenses. Respondent may not apply for a new registration or license under the jurisdiction of the Bureau on any date prior to the original scheduled date of probation completion. Should Respondent at any time after this date apply to the Bureau for registration or licensure, Respondent must meet all current requirements for registration or licensure and pay all outstanding fees owed to the Bureau and left outstanding at the time of surrender.

10. Employment or Address Change Notification

Respondent shall notify the Bureau in writing within 14 days of any change of place of employment, place of residence, or mailing address. The written notice shall include the employer's name, address, and telephone number, Respondent's residence address and telephone number, and Respondent's mailing address.

11. Notification to Employer

When performing services that fall within the scope of his license(s), Respondent shall provide each of his current or future employers a copy of the decision and the underlying Statement of Issues before commencing employment. Notification to Respondent's current employer shall occur no later than the effective date of the decision. Respondent shall submit to the Bureau, upon request, satisfactory evidence of compliance with this term of probation.

12. Shall not perform a Smog Check Inspection on, or issue a Certificate of Compliance to any vehicle that has been directed to a STAR Station.

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Respondent shall not be permitted to perform Smog Check inspections on, or issue certificates of compliance to any vehicles that have been directed to a STAR station for their biennial Smog Check pursuant to Section 44010.5 or 44014.7 under the Health and Safety Code.

DATED: February 19, 2015



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ROBERT S. EISMAN  
Administrative Law Judge  
Office of Administrative Hearings

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

12 In the Matter of the Statement of Issues Against:

Case No. *79/14-39s*

13 **STEPHEN RENE PAUL**

14 Respondent.

15 **STATEMENT OF ISSUES**

*(SMOG CHECK)*

16  
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about May 2, 2013, the Bureau received an application for a Smog Check  
23 Inspector and/or Smog Check Repair Technician license from Stephen Rene Paul ("Respondent").  
24 On or about May 1, 2013, Respondent certified under penalty of perjury that all statements made  
25 in the application were true and correct. The Bureau denied the application on June 10, 2013.

26 **PAULS SMOG; Stephen Rene Paul, Owner**

27 3. In or about 2002, the Director of Consumer Affairs ("Director") issued Automotive  
28 Repair Dealer Registration Number AC 220521 ("registration") to Stephen Rene Paul

1 ("Respondent Stephen Rene Paul"), owner of PAULS SMOG. Respondent's registration was  
2 permanently invalidated effective November 9, 2006, as more particularly set forth below in  
3 paragraph 6.

4 4. On or about July 16, 2002, the Director issued Smog Check Test Only Station  
5 License Number TC 220521 ("smog check station license") to Respondent Stephen Rene Paul.  
6 Respondent's smog check station license was revoked effective November 9, 2006, as more  
7 particularly set forth below in paragraph 6.

8 5. In or about 1997, the Director issued Advanced Specialist Technician License No. EA  
9 33901<sup>1</sup> to Respondent Stephen Rene Paul. Respondent's Advanced Specialist Technician license  
10 was revoked effective November 9, 2006, as more particularly set forth below in paragraph 6.

#### 11 DISCIPLINARY HISTORY

12 6. On September 5, 2006, pursuant to the Proposed Decision of the Administrative Law  
13 Judge adopted by the Director as its Decision in the disciplinary action titled In the Matter of the  
14 Accusation Against Stephen Rene Paul, owner, Pauls Smog, Case Number 79/06-15, the Director  
15 made the following orders, effective October 10, 2006<sup>2</sup>:

16 a. The Director permanently invalidated Automotive Repair Dealer  
17 Registration Number AC 220521, issued to Respondent Stephen Rene Paul, owner, Pauls Smog,  
18 for violations of Business and Professions Code ("Bus. & Prof. Code") sections 9884.7,  
19 subdivision (a)(1) [making or authorizing false or misleading statements]; and 9884.7,  
20 subdivision (a)(4) [fraud].

21 b. The Director revoked Smog Check Test Only Station License Number  
22 TC 220521, issued to Respondent Stephen Rene Paul, owner, Pauls Smog, for violations of  
23 Health and Safety Code ("Health & Saf. Code") sections 44072.2, subdivision (a) [violations of

24 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
25 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
26 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

27 <sup>2</sup> Pursuant to Government Code section 11521, on or about September 22, 2006, the  
28 Director granted a stay of execution of the decision staying the decision of revocation until  
November 9, 2006. The effective date of the decision thus became November 9, 2006.

1 Health & Saf. Code sections 44012, 44015, subdivision (b), 44059 and California Code of  
2 Regulations, title 16, sections 3340.30, subdivision (a), and 3340.42, subdivision (a)]; 44072.2,  
3 subdivision (c) [violations of California Code of Regulations, title 16, sections 3340.24,  
4 subdivision (c), 3340.35, subdivision (c), 3340.41, subdivision (c), and 3340.42]; and 44072.2,  
5 subdivision (d) [dishonesty, fraud or deceit].

6 c. The Director revoked Advanced Emission Specialist Technician License  
7 Number EA 033901, issued to Respondent Stephen Rene Paul, for violations of Health & Saf.  
8 Code sections 44072.2, subdivision (a) [violations of Health & Saf. Code sections 44012 and  
9 44059 and California Code of Regulations, title 16, sections 3340.30, subdivision (a), and  
10 3340.42, subdivision (a)]; 44072.2, subdivision (c) [violations of California Code of Regulations,  
11 title 16, sections 3340.24, subdivision (c), 3340.35, subdivision (c), 3340.41, subdivision (c), and  
12 3340.42]; and 44072.2, subdivision (d) [dishonesty, fraud or deceit].

### 13 STATUTORY PROVISIONS

14 7. Code section 480 states, in pertinent part:

15 (a) A board may deny a license regulated by this code on the grounds  
16 that the applicant has one of the following:

17 . . . .

18 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
substantially benefit himself or herself or another, or substantially injure another.

19 (3)(A) Done any act that if done by a licentiate of the business or  
20 profession in question, would be grounds for suspension or revocation of license.

21 (B) The board may deny a license pursuant to this subdivision only if the  
22 crime or act is substantially related to the qualifications, functions, or duties of the  
23 business or profession for which application is made.

24 . . . .

25 (c) A board may deny a license regulated by this code on the ground that  
26 the applicant knowingly made a false statement of fact required to be revealed in the  
27 application for the license.

28 8. Section 44072 of the Health and Safety Code provides, in pertinent part, that  
the director may refuse to issue a license to any applicant for the reasons set forth in  
Section 44072.1.

1 9. Section 44072.1 of the Health and Safety Code states, in pertinent part:

2 The director may deny a license if the applicant, or any partner, officer, or  
3 director thereof, does any of the following:

4 (b) Was previously the holder of a license issued under this chapter [the  
5 Motor Vehicle Inspection Program (Health and Saf. Code, § 44000, et seq.)], which  
6 license has been revoked and never reissued or which license was suspended and the  
7 terms of the suspension have not been fulfilled.

8 (c) Has committed any act which, if committed by any licensee, would  
9 be grounds for the suspension or revocation of a license issued pursuant to this  
10 chapter.

11 (d) Has committed any act involving dishonesty, fraud, or deceit  
12 whereby another is injured or whereby the applicant has benefitted.

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

16 11. Code section 477 of the Business and Professions Code provides, in pertinent part,  
17 that "Board" includes "bureau," "commission," "committee," "department," "division,"  
18 "examining committee," "program," and "agency." "License" includes "certificate," "registration"  
19 or other means to engage in a business or profession regulated by the code.

### 20 REGULATORY PROVISIONS

21 12. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
22 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
23 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
24 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

### 25 FIRST CAUSE FOR DENIAL

#### 26 (Acts Warranting Denial of Application: Accusation No. 79/06-15)

27 13. Respondent Stephen Rene Paul's application for a Smog Check Inspector, and/or  
28 Smog Check Repair Technician license is subject to denial pursuant to Health & Saf. Code  
sections 44072.1, subdivision (c), 44072.1, subdivision (d), and Bus. & Prof. Code section 480,  
subdivision (a)(3), in that he committed acts while holding Automotive Repair Dealer  
Registration Number AC 220521, Smog Check Test Only Station License Number TC 220521,

1 and Advanced Emission Specialist Technician License Number EA 33901, which were grounds  
2 for revocation of said registration and licenses, as set forth in paragraph 6 above.

3 **SECOND CAUSE FOR DENIAL**

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

5 14. Respondent Stephen Rene Paul's application for a Smog Check Inspector, and/or  
6 Smog Check Repair Technician is subject to denial pursuant to Health & Saf. Code section  
7 44072.1, subdivision (d), and Bus. & Prof. Code section 480, subdivision (a)(2), in that he  
8 committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit  
9 himself or another, or substantially injure another, as set forth in paragraph 6 above.

10 **PRAYER**

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

- 13 1. Denying the application of Stephen Rene Paul, for a Smog Check Inspector, and/or  
14 Smog Check Repair Technician License;
- 15 2. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: October 18, 2013

  
18 PATRICK DORAIS  
19 Acting Chief  
20 Bureau of Automotive Repair  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

24 LA2013510336