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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 In the Matter of the Accusation Against:

Case No. 79/20-11422

13 **SCOTT T. KWONG DBA ONE STOP**
14 **SMOG**

15 1195 W. Foothill Boulevard, #B
Azusa, CA 91702

ACCUSATION

16 Mailing address:
17 PO Box 80795
San Marino, CA 91118

18 Automotive Repair Dealer Registration No.
ARD 285659
19 Smog Check, Test Only Station License No.
TC 285659,
20

21 **and**

22 **SCOTT TAIGI KWONG**

23 2345 Brentford Road
San Marino, CA 91108

24 Smog Check Inspector License No. EO 639587

Respondent.

25
26 **PARTIES**

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

1 committee,” “program,” and “agency.” “License” includes certificate, registration or other means
2 to engage in a business or profession regulated by the Code.

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

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

10 10. Health & Safety Code section 44072.8 states:

11 “When a license has been revoked or suspended following a hearing under this article, any
12 additional license issued under this chapter in the name of the licensee may be likewise revoked
13 or suspended by the director.”

14 **STATUTORY PROVISIONS**

15 11. Health and Safety Code section 44045.6, subdivision (c), states:

16 “The department may require remedial training at a certified training facility or may take
17 disciplinary action, whichever the department determines to be the most appropriate, for any
18 licensed technician who the department determines cannot perform inspections, testing, or repairs
19 as required under the program. The failure to complete the remedial training when required by the
20 department shall be a ground for revocation or suspension of a smog check technician’s license
21 under Section 44072.2.”

22 12. Health and Safety Code section 44050 states, in pertinent part:

23 “(a) In addition to or in lieu of any other remedy or penalty, including, but not limited to,
24 education, training, or an office conference, the department may issue a citation to a licensee,
25 contractor, or fleet owner for a violation of the requirements of this chapter or a regulation
26 adopted pursuant to this chapter. The citation may contain an order of abatement or the
27 assessment of an administrative fine, or both.

28

1 “(e) Failure to comply with an order of abatement or payment of an administrative fine
2 issued by the department pursuant to this section is grounds for suspension or revocation of the
3 license, or placing the licensee on probation.”

4 13. Health and Safety Code section 44072.2 states, in pertinent part:

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

8

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

10

11 “(h) Violates or attempts to violate the provisions of this chapter relating to the particular
12 activity for which he or she is licensed.”

13 **REGULATORY PROVISION**

14 14. California Code of Regulations, title 16, section 3320.24, subdivision (d), states:

15 “The bureau may suspend or revoke the license of or pursue other legal action against a
16 licensee that fails to complete retraining when required by the department, pursuant to section
17 44045.6 of the Health and Safety Code.”

18 15. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a
19 licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, in
20 accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and
21 Safety Code, and section 3340.42 of this article.”

22 16. California Code of Regulations, title 16, section 3340.31 states:

23 “(a) Licensed inspectors or repair technicians receiving citations pursuant to
24 subdivision (b) of Section 44050 of the Health and Safety Code, or found lacking in skills
25 pursuant to subdivision (b) of Section 44031.5 of the Health and Safety Code, or found lacking in
26 skills pursuant to subdivision (c) of Section 44045.6 of the Health and Safety Code, shall be
27 required to undergo retraining at institutions and by instructors certified by the bureau pursuant to
28 Sections 44030.5 and 44045.6 of the Health and Safety Code.

1 “(b) Failure by a licensed inspector or repair technician to complete retraining when
2 required by the department shall be grounds for revocation or suspension of the license, pursuant
3 to section 44045.6 of the Health and Safety Code.”

4 **COST RECOVERY**

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

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Citation – C2018-2499)**

11 18. Respondent’s Automotive Repair Dealer Registration and Smog Check, Test Only
12 Station License are subject to disciplinary action pursuant to Health and Safety Code sections
13 44050, subdivision (e), and 44072.2, in that Respondent failed to comply with a Bureau issued
14 citation and order of abatement. The facts and circumstances are that on or about November 29,
15 2018, the Bureau issued Citation No. C2018-2499 to Respondent against his Automotive Repair
16 Dealer Registration and Smog Check, Test Only Station License for violating Health and Safety
17 Code section 44012 (issuing a certificate of compliance to a vehicle with a missing or modified
18 positive crankcase ventilation (PCV) system). Respondent was ordered to pay a \$1,000.00
19 penalty. On or about January 9, 2019, Respondent was present for a Citation Service Conference
20 wherein the citation was reviewed and discussed in detail. On or about September 18, 2019, the
21 Bureau sent a letter to Respondent acknowledging Citation No. C2018-2499 was adopted as the
22 final decision of the Department of Consumer Affairs with the \$1,000.0 assess penalty due on
23 October 18, 2019. To date, Respondent failed to submit the citation’s penalty payment to the
24 Bureau.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Citation – M2018-2500)**

27 19. Respondent’s Smog Check Inspector License is subject to disciplinary action
28 pursuant to Health and Safety Code sections 44072.2, 44050, subdivision (e), and 44045.6,

1 subdivision (c), and California Code of Regulations, title 16, sections 3320.24, subdivision (d),
2 and 3340.31, in that Respondent failed to comply with a Bureau issued citation and order of
3 abatement. The facts and circumstances are that on or about November 29, 2018, the Bureau
4 issued Citation No. M2018-2500 to Respondent against his Smog Check Inspector License for a
5 violation of Health and Safety Code section 44032 (qualified technicians shall perform tests of
6 emission control systems and devices in accordance with section 44012 of the Health and Safety
7 Code). The Bureau ordered Respondent to attend an 8-Hour BAR Certified Smog Check Citation
8 Training Course within 60 days of the Citation Service Conference. On or about January 9, 2019,
9 Respondent was present for a Citation Service Conference wherein the citation was reviewed and
10 discussed in detail. On or about September 18, 2019, the Bureau sent a letter to Respondent
11 acknowledging Citation No. M2018-2500 was adopted as the final decision of the Department of
12 Consumer Affairs with the 8 hour BAR certified retraining class to be scheduled within 30 days
13 and completed within 60 days of the citation effective date of October 18, 2019. To date,
14 Respondent failed to submit the training completion certificate to the Bureau.

15 **OTHER MATTERS**

16 20. Pursuant to Health & Safety Code section 44072.8, if Respondent's license is revoked
17 or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health
18 and Safety Code in the name of said licensee may be likewise revoked or suspended by the
19 Director.

20 **PRAYER**

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

- 24 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 285659,
25 issued to Scott T. Kwong dba One Stop Smog;
- 26 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
27 Scott T. Kwong;
- 28 3. Revoking or suspending Smog Check, Test Only Station License No. TC 285659,

1 issued to Scott T. Kwong dba One Stop Smog;

2 4. Revoking or suspending Smog Check Inspector License No. EO 639587, issued to
3 Scott Taigi Kwong ;

4 5. Revoking or suspending any additional license issued pursuant to Chapter 5, Part 5,
5 Division 26 of the Health and Safety Code in the name of Scott T. Kwong;

6 6. Ordering Scott Taigi Kwong to pay the Bureau of Automotive Repair the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3; and,

9 7. Taking such other and further action as deemed necessary and proper.

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13 DATED: January 22, 2021

/s/

14 PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

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