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

11 In the Matter of the Accusation
and Petition to Revoke Probation Against:

Case No. 79/25-8692

12 **SHANA LEE TUCKER**
13 P.O. Box 97
Isleton, CA 95641

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

14 **Smog Check Inspector License No. EO 640693**

15 One Respondent.

17 **PARTIES**

18 1. Patrick Dorais (Complainant) brings this Accusation and Petition to Revoke
19 Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair
20 (Bureau), Department of Consumer Affairs.

21 2. On or about October 30, 2017, the Bureau issued Smog Check Inspector License
22 Number EO 640693 to Shana Lee Tucker (Respondent). The Smog Check Inspector License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 October 31, 2025, unless renewed.

25 **DISCIPLINARY HISTORY**

26 3. In a disciplinary action entitled *In the Matter of the Accusation Against Shana Lee*
27 *Tucker*, Case No. 79/21-8671, the Director of the Department of Consumer Affairs (Director) for
28 the Bureau issued a Decision and Order effective August 16, 2022, in which Respondent's Smog

1 Check Inspector License was revoked. However, the revocation was stayed and Respondent's
2 Smog Check Inspector License was placed on probation for three (3) years with certain terms and
3 conditions.

4 **JURISDICTION FOR ACCUSATION**

5 4. This Accusation is brought before the Director for the Bureau under the authority of
6 the following laws.

7 5. Code section 477 provides, in pertinent part, that Board includes bureau, commission,
8 committee, department, division, examining committee, program, and agency. License includes
9 certificate, registration or other means to engage in a business or profession regulated by the
10 Code.

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

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

18 8. Health & Saf. Code section 44072.8 states that when a license has been revoked or
19 suspended following a hearing under this article, any additional license issued under this chapter
20 in the name of the licensee may be likewise revoked or suspended by the director.

21 **STATUTORY PROVISIONS FOR ACCUSATION**

22 9. Health & Saf. Code section 44012 states, in pertinent part:

23 The test at the smog check stations shall be performed in accordance with
24 procedures prescribed by the department and may require loaded mode
25 dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a
26 vehicle's onboard diagnostic system, or other appropriate test procedures as
27 determined by the department in consultation with the state board. The department
28 shall implement testing using onboard diagnostic systems, in lieu of loaded mode
dynamometer or two-speed idle testing, on model year 2000 and newer vehicles
only, beginning no earlier than January 1, 2013. However, the department, in

1 consultation with the state board, may prescribe alternative test procedures that
2 include loaded mode dynamometer or two-speed idle testing for vehicles with
3 onboard diagnostic systems that the department and the state board determine
4 exhibit operational problems. The department shall ensure, as appropriate to the
5 test method, the following:

6 (a) Emission control systems required by state and federal law are reducing
7 excess emissions in accordance with the standards adopted pursuant to
8 subdivisions (a) and (c) of Section 44013.

9 ...

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

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

16 ...

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

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

22 ...

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

25 ...

26 11. Health & Saf. Code 44072.2, states, in pertinent part:

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

(a) Violates any section of this chapter and the regulations adopted pursuant
to it, which related to the licensed activities.

...

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

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

...

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16 (CCR), section 3340.24, subdivision (c) states:

The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.

13. CCR section 3340.30 states, in pertinent part:

A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.

...

14. CCR section 3340.41, states, in pertinent part:

...

(c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.

...

15. CCR section 3340.42, states:

Smog check inspection methods are prescribed in the Smog Check Manual, referenced by section 3340.45.

(a) All vehicles subject to a smog check inspection, shall receive one of the following test methods:

(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby incorporated by reference. If the emissions standards for a specific vehicle are not included in this table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured emissions are less than or equal to the applicable emission standards specified in the applicable table.

1 (2) A two-speed idle mode test shall be the test method used to inspect
2 1976 - 1999 model-year vehicles, except diesel-powered, registered in all program
3 areas of the state, except in those areas of the state where the enhanced program has
4 been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
5 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
6 contained in the bureau's specifications referenced in subsection (a) of Section
3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
shall be measured and compared to the emission standards set forth in this section and
as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
measured emissions are less than or equal to the applicable emissions standards
specified in Table III.

7 (3) An OBD-focused test, shall be the test method used to inspect
8 gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles
9 1998 model-year and newer. The OBD test failure criteria are specified in section
3340.42.2.

10 (b) In addition to subsection (a), all vehicles subject to the smog check program
shall receive the following:

11 (1) A visual inspection of emission control components and systems to
12 verify the vehicle's emission control systems are properly installed.

13 (2) A functional inspection of emission control systems as specified in the
14 Smog Check Manual, referenced by section 3340.45, which may include an OBD
test, to verify their proper operation.

15 (c) The bureau may require any combination of the inspection methods in
sections (a) and (b) under any of the following circumstances:

16 (1) Vehicles that the department randomly selects pursuant to Health and
17 Safety Code section 44014.7 as a means of identifying potential operational problems
with vehicle OBD systems.

18 (2) Vehicles identified by the bureau as being operationally or physically
19 incompatible with inspection equipment.

20 (3) Vehicles with OBD systems that have demonstrated operational
problems.

21 (d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
22 standards are as follows:

23 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
24 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
standards included in the tables described in subsection (a), as applicable.

25 (2) Vehicles with emission levels exceeding the emission standards for
26 gross polluters during an initial inspection will be considered gross polluters and the
provisions pertaining to gross polluting vehicles will apply, including, but not limited
to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

27 (3) A gross polluting vehicle shall not be passed or issued a certificate of
28 compliance until the vehicle's emissions are reduced to or below the applicable
emissions standards for the vehicle included in the tables described in subsection (a),

1 as applicable. However, the provisions described in section 44017 of the Health and
2 Safety Code may apply.

3 (4) This subsection applies in all program areas statewide to vehicles
4 requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety
5 Code.

6 16. CCR section 3340.45, states, in pertinent part, that all Smog Check inspections
7 shall be performed in accordance with requirements and procedures prescribed.

8 **COST RECOVERY FOR ACCUSATION**

9 17. Code section 125.3 provides, in pertinent part, that the Bureau may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement
12 of the case, with failure of the licentiate to comply subjecting the license to not being renewed or
13 reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
14 stipulated settlement.

15 **UPDATED SMOG CHECK PROGRAM – ON BOARD DIAGNOSTIC SYSTEM**

16 18. On or about March 9, 2015, California's Smog Check Program was updated to keep
17 pace with ever-advancing technology. The program update requires the use of an On-Board
18 Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all
19 areas of the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles
20 and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition
21 Device (DAD), computer, bar code scanner, and printer.

22 19. The DAD is an On-Board Diagnostic (OBD) scan tool that, when requested by the
23 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between
24 the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used
25 to input technician information, the vehicle identification number, and the Department of Motor
26 Vehicle (DMV) renewal information. The vehicle identification number (VIN) that is physically
27 present on all vehicles is required to be programmed into the vehicle's On-Board Diagnostics —
28 Generation II (OBD II) on 2005 and newer vehicles, and on many occasions was programmed
into the OBD II computer in earlier model-years. The electronically programmed VIN is referred

1 to as the “eVIN”, is captured by the Bureau during a smog check inspection and should match the
2 physical VIN on the vehicle. The printer is used to provide a vehicle inspection report, which
3 shows the inspection results and the Smog Check Certificate of Compliance Number for passing
4 vehicles. Data retrieved and recorded during an OIS smog check includes the eVIN, the
5 communication protocol¹, and the number of Parameter Identifications (PID)².

6 **REVIEW OF OIS TEST DATA**

7 20. Bureau Representative M.W. reviewed BAR-OIS test data pertaining to smog
8 inspections conducted at Smog Wizard. M.W. found that Respondent had performed smog check
9 inspections on three vehicles identified below using a method known as "clean plugging,"³
10 resulting in the issuance of fraudulent certificates of compliance for the vehicles.

11 **Vehicle 1**

12 21. BAR-OIS data showed that on February 22, 2025, Respondent performed a smog
13 check inspection on a 2017 Honda Civic Sport (Vehicle 1), resulting in the issuance of Certificate
14 of Compliance No. JD571649C. The OIS test detail showed that the eVIN recorded during the
15 inspection did not match the physical VIN on Vehicle 1. The PID count recorded during the
16 inspection on Vehicle 1 was not consistent with the PID count for the make and model of this
17 vehicle by other smog check stations.

18 22. M.W. utilized the Bureau’s database and found that Vehicle 1 had been previously
19 tested by Respondent and passed inspection that same day. The BAR-OIS test data from that
20 inspection showed the eVIN had been transmitted as expected, and the communication protocol
21 and PID count had been consistent with the make and model of Vehicle 1.

22 23. M.W. utilized the Bureau’s database and found that the eVIN transmitted during the

23 ¹ The OBD II communication protocol describes the specified communication “language”
24 used by the OBD II computer to communication to scan tools and other devices such as the BAR-
25 OIS. The communication protocol is programmed into the vehicle's on-board computer during
26 manufacture and does not change.

25 ² PIDs are data points reported by the vehicle's on-board computer to a scan tool or BAR-
26 OIS, such as engine speed, vehicle speed, engine temperature, etc. The PID count is the number
27 of data points.

27 ³ Clean plugging is the use of a vehicle’s properly functioning OBD II system, or another
28 source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog
certificate of compliance to another vehicle that is not in compliance with the Smog Check
Program and/or is not present for testing.

1 second inspection of Vehicle 1 on February 22, 2025, matched a 2020 Hyundai Santa SE. The
2 communication protocol and PID count transmitted to the Bureau's database during the
3 inspection of Vehicle 1 were consistent with the communication protocol and PID count for the
4 2020 Hyundai Santa Fe. M.W. concluded that Respondent used the 2020 Hyundai Santa Fe's
5 properly functioning OBD II system during the smog inspection of Vehicle 1, resulting in the
6 issuance of a fraudulent smog certificate of compliance for Vehicle 1.

7 **Vehicle 2**

8 24. BAR-OIS data showed that on March 15, 2025, Respondent performed a smog check
9 inspection on a 2019 Ford F150 (Vehicle 2), resulting in the issuance of Certificate of
10 Compliance No. JD634221C. The OIS test detail showed that the eVIN recorded during the
11 inspection did not match the physical VIN on Vehicle 2. The PID count recorded during the
12 inspection on Vehicle 2 was not consistent with the PID count for the make and model of this
13 vehicle by other smog check stations.

14 25. M.W. utilized the Bureau's database and found that the eVIN transmitted during the
15 inspection of Vehicle 2 on March 15, 2025, matched a 2020 Chevrolet Silverado K2500 Heavy
16 Duty LT. The communication protocol and PID count transmitted to the Bureau's database
17 during the inspection of Vehicle 2 were consistent with the communication protocol and PID
18 count for the 2020 Chevrolet Silverado K2500 Heavy Duty LT. M.W. concluded that
19 Respondent used the 2020 Chevrolet Silverado's properly functioning OBD II system during the
20 smog inspection of Vehicle 2, resulting in the issuance of a fraudulent smog certificate of
21 compliance for Vehicle 2.

22 **Vehicle 3**

23 26. BAR-OIS data showed that on April 18, 2025, Respondent performed a smog check
24 inspection on a 2019 Jeep Cherokee Latitude (Vehicle 3), resulting in the issuance of Certificate
25 of Compliance No. UM754362C. The OIS test detail showed that the eVIN recorded during the
26 inspection did not match the physical VIN on Vehicle 3. The PID count recorded during the
27 inspection on Vehicle 3 was not consistent with the PID count for the make and model of this
28 vehicle by other smog check stations.

1 **THIRD CAUSE FOR DISCIPLINE**

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

3 30. Respondent’s smog check inspector license is subject to disciplinary action pursuant
4 to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health & Saf. Code
5 section 44072.10, subdivision (c), in that Respondent committed dishonest, fraudulent, or
6 deceitful acts whereby another was injured by using false information for electronic smog
7 certificates of compliance issued for Vehicles 1 through 3, identified in paragraphs 20 through 27
8 above, thereby failing to perform bona fide inspections of the emission control devices and
9 systems on the vehicles and depriving the People of the State of California of the protection
10 afforded by the Motor Vehicle Inspection Program.

11 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

12 31. At all times after the effective date of Respondent’s probation, Condition 5 stated:

13 If Respondent violates or fails to comply with the terms and conditions of
14 probation in any respect, the Director, after giving notice and opportunity to be heard
15 may set aside the stay order and carry out the disciplinary order provided in the
16 decision. Once Respondent is served notice of the BAR’s intent to set aside the stay,
17 the Director shall maintain jurisdiction, and the period of probation shall be extended
18 until final resolution of the matter.

17 32. Respondent’s probation is subject to revocation, in that she violated probation as set
18 forth below:

19 **FIRST CAUSE TO REVOKE PROBATION**

20 **(Failure to Obey all Laws)**

21 33. At all times after the effective date of the Decision, Condition 1 stated:

22 During the period of probation, Respondent shall comply with all federal and
23 state statutes, regulations and rules governing all BAR registrations and licenses held
24 by Respondent.

24 34. Respondent’s probation is subject to revocation in that Respondent failed to comply
25 with all statutes, regulations, and rules governing smog inspections as set forth in paragraphs 20
26 through 27, above.

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28 ///

1 **SECOND CAUSE TO REVOKE PROBATION**

2 **(Failure to Pay Cost Recovery)**

3 35. At all times after the effective date of Respondent's probation, Condition 7 states:

4 Respondent shall pay the Bureau of Automotive Repair \$4,560.00 for the
5 reasonable costs of the investigation and enforcement of case No. 79/21-8671.
6 Respondent shall make such payments as follows: 30 equal monthly payments of
7 \$152.00 beginning on the effective date of the Bureau's decision. Full payment to
8 be completed no later than six (6) months before probation terminates. Respondent
9 shall make payment by check or money order payable to the Bureau of Automotive
10 Repair and shall indicate on the check or money order that it is for cost recovery
11 payment for case No. 79/21-8671. Any order for payment of cost recovery shall
12 remain in effect whether or not probation is tolled. Probation shall not terminate
13 until full cost recovery payment has been made. The BAR reserves the right to
14 pursue any other lawful measures in collecting on the costs ordered and past due, in
15 addition to taking action based upon the violation of probation.

16 36. Respondent's probation is subject to revocation in that Respondent failed to comply
17 with Probation Condition 7, above, because Respondent did not pay an outstanding balance of
18 \$3,896.00 in cost recovery payments to the Bureau by no later than six months before probation
19 terminates.

20 **DISCIPLINARY CONSIDERATIONS**

21 37. To determine the degree of discipline, if any, to be imposed on Respondent,
22 Complainant alleges, as follows:

23 a. On or about August 18, 2022, a probation conference was held with
24 Respondent. Respondent was told verbally and in writing to perform proper emission tests on
25 vehicles in accordance with procedures prescribed by the department. Respondent was advised
26 that failure to comply with the Automotive Repair Act and other applicable statutes may result in
27 disciplinary action that could jeopardize her smog check inspector license.

28 **OTHER MATTERS**

39 38. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
40 Number EO 640693 issued to Respondent Shana Lee Tucker, is revoked or suspended, any
41 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in
42 the name of said licensee may be likewise revoked or suspended by the Director.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/21-8671 and imposing the disciplinary order that was stayed thereby revoking Smog Check Inspector License No. EO 640693 issued to Shana Lee Tucker;

2. Revoking or suspending Smog Check Inspector License No. EO 640693, issued to Shana Lee Tucker;

3. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Shana Lee Tucker;

4. Ordering Shana Lee Tucker to pay the Director of the Department of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: As of Digital Signature Date

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

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39183654

Exhibit A

Decision and Order

Bureau of Automotive Repair Case No. 79/21-8671