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

12
13 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 79/23-8353

14 **JOSSUE BALTAZAR RAMIREZ**
15 **807 E. 95th Street**
Los Angeles, CA 90002
16 **Smog Check Inspector License No. EO**
640836

ACCUSATION AND PETITION TO
REVOKE PROBATION

17
18 Respondent.

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20
21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about January 5, 2018, the Bureau of Automotive Repair issued Smog Check
27 Inspector License Number EO 640836 to Jossue Baltazar Ramirez (Respondent). The Smog
28 Check Inspector License will expire on September 30, 2025, unless renewed.

1 (f) Aids or abets unlicensed persons to evade the provisions of this chapter.

2 (g) Fails to make and keep records showing his or her transactions as a
3 licensee, or fails to have those records available for inspection by the director or his
4 or her duly authorized representative for a period of not less than three years after
5 completion of any transaction to which the records refer, or refuses to comply with a
6 written request of the director to make the records available for inspection.

7 (h) Violates or attempts to violate the provisions of this chapter relating to the
8 particular activity for which he or she is licensed.

9 8. Section 44072.10, subdivision (c), of the Health and Safety Code states, in pertinent
10 part: “The department shall revoke the license of any smog check technician or station licensee
11 who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles....”

12 9. Section 118, subdivision (b), of the Business and Professions Code provides that the
13 suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of
14 jurisdiction to proceed with a disciplinary action during the period within which the license may
15 be renewed, restored, reissued or reinstated.

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

20 **REGULATORY PROVISIONS**

21 11. California Code of Regulations, title 16, section 3340.45, states: “All Smog Check
22 inspections shall be performed in accordance with requirements and procedures prescribed in the
23 Smog Check Manual, dated January 2021, which is hereby incorporated by reference.” The
24 Smog Check Manual states, in pertinent part, that: “Disclosure of one’s [smog check inspector]
25 access code or use of another inspector’s access code or license information is prohibited and
26 such conduct will result in disciplinary action.”

27 **COST RECOVERY**

28 12. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
the Bureau may request the administrative law judge to direct a licensee found to have committed
a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case, with failure of the licensee to comply subjecting the

1 license to not being renewed or reinstated. If a case settles, recovery of investigation and
2 enforcement costs may be included in a stipulated settlement.

3 **DEFINITION – CLEAN TANKING**

4 13. The Bureau has become aware of certain methods that some Smog Check stations and
5 Smog Check inspectors use to fraudulently issue smog certificates to vehicles that may not or will
6 not pass a Smog Check test on their own, or in some instances, are not even present during the
7 time the test is performed. “Clean tanking” is one such method. “Clean tanking” involves using
8 another vehicle’s properly functioning fuel evaporative storage system, or another source, during
9 the Low Pressure Fuel Evaporative Test (LPFET) using the LPFET equipment calibration tank
10 instead of connecting to the subject vehicle’s fuel inlet to determine if there is a leak in the
11 system.

12 14. LPFET is designed to test the functionality of the vehicle’s Evaporative Emissions
13 Control system by introducing inert Nitrogen gas into the vehicle’s fuel system, which includes
14 the fuel tank, until it reaches a predetermined pressure and then holds that pressure for a specified
15 period of time to confirm no leaks are present in the system. If the LPFET equipment fails a
16 proper calibration test, the LPFET tester is locked and the station is not able to perform the
17 LPFET test until the unit passes. “Clean tanking” subverts the LPFET.

18 **FACTUAL ALLEGATIONS**

19 15. On December 19, 2022, Respondent was employed by Jerry Guzzetta, dba Halo Hot
20 Rod, a licensed automotive repair dealer and smog check station. Jerry Guzzetta is not a licensed
21 smog check inspector.

22 **Undercover Operation: 1991 Buick**

23 16. On December 19, 2022, an undercover operator with the Bureau took the Bureau’s
24 1991 Buick to Halo Hot Rod. The 1991 Buick was equipped with cameras to capture, *inter alia*,
25 who performed the smog check inspection.

26 17. Upon arriving at Halo Hot Rod, the undercover operator requested a smog check
27 inspection.

28

1 18. Jerry Guzzetta, and not Respondent, performed the inspection by using Respondent's
2 smog check inspector access code. In addition, during the inspection, Jerry Guzzetta un-coupled
3 the LPFET hose to a blue fuel tank adaptor, which was already connected to a red colored gas
4 tank sitting atop the dynamometer. Jerry Guzzetta never accessed the 1991 Buick's gas tank, as
5 required for a LPFET, and instead used "clean tanking" during the inspection.

6 19. After the inspection, the undercover operator was given a Smog Check Vehicle
7 Inspection Report. The Report stated that the 1991 Buick had passed the smog check inspection,
8 and falsely identified Respondent as the testing smog check inspector.

9 **Undercover Operation: 1992 Toyota**

10 20. On December 19, 2022, an undercover operator with the Bureau took the Bureau's
11 1992 Toyota to Halo Hot Rod. The 1992 Toyota was equipped with cameras to capture, *inter*
12 *alia*, who performed the inspection.

13 21. Upon arriving at Halo Hot Rod, the undercover operator requested a smog check
14 inspection. Jerry Guzzetta, and not Respondent, performed the inspection by using Respondent's
15 smog check inspector access code.

16 22. After the inspection, the undercover operator was given a Smog Check Vehicle
17 Inspection Report. The Report stated that the 1992 Toyota had passed the smog check inspection,
18 and which falsely identified Respondent as the testing smog check technician.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Acts Involving Dishonesty, Fraud, or Deceit)**

21 23. Paragraphs 15 through 22 are incorporated herein by this reference.

22 24. Respondent has subjected his license to discipline under Health and Safety Code
23 section 44072.2, subdivision (d), and Health and Safety Code section 44072.10, subdivision (c),
24 in that Respondent allowed Jerry Guzzetta to use Respondent's smog check inspector access code
25 to perform fraudulent smog checks.

26 **SECOND CAUSE FOR DISCIPLINE**

27 **(Acts Involving Dishonesty, Fraud, or Deceit)**

28 25. Paragraphs 15 through 22 are incorporated herein by this reference.

1 governing his Smog Check Inspector license by allowing Jerry Guzzetta to use Respondent's
2 smog check inspector access code to perform fraudulent smog checks, as alleged in more detail in
3 paragraphs 15 through 22, above.

4 **SECOND CAUSE TO REVOKE PROBATION**

5 (Participation in Fraudulent Certification or Fraudulent Inspection of Vehicles)

6 33. At all times after the effective date of Respondent's probation, Condition 2 provides
7 that Respondent shall comply with all laws, regulations, and rules governing Bureau-issued
8 registrations and licenses held by Respondent.

9 34. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Term and Condition 2, in that Respondent violated the laws, regulations, and rules
11 governing his Smog Check Inspector license by allowing Jerry Guzzetta to use Respondent's
12 smog check inspector access code to perform fraudulent inspection of vehicles and to issue
13 fraudulent certifications, as alleged in more detail in paragraphs 15 through 22, above.

14 **THIRD CAUSE TO REVOKE PROBATION**

15 (Violations of Requirements of Smog Check Manual)

16 35. At all times after the effective date of Respondent's probation, Condition 2 provides
17 that Respondent shall comply with all laws, regulations, and rules governing Bureau-issued
18 registrations and licenses held by Respondent.

19 36. Respondent's probation is subject to revocation because he failed to comply with
20 Probation Term and Condition 2, in that Respondent violated the laws, regulations, and rules
21 governing his Smog Check Inspector license by allowing Jerry Guzzetta to use Respondent's
22 smog check inspector access code in violation of the requirements of the Smog Check Manual, as
23 alleged in more detail in paragraphs 15 through 22, above.

24 **FOURTH CAUSE TO REVOKE PROBATION**

25 (Aiding or Abetting an Unlicensed Person in Violating the Motor Vehicle Inspection Program)

26 37. At all times after the effective date of Respondent's probation, Condition 2 provides
27 that Respondent shall comply with all laws, regulations, and rules governing Bureau-issued
28 registrations and licenses held by Respondent.

Exhibit A

Decision and Order

Bureau of Automotive Repair Case No. 79/20-13442