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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. 77/23-9332

13 **MYNOR ROCAEL MORALES REYES**

ACCUSATION

14 2430 E. 126th St.
Compton, CA 90222

15 Smog Check Inspector License No. EO 641489

16 Respondent.
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19 **PARTIES**

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

22 2. On or about October 24, 2018, the Bureau issued Smog Check Inspector License
23 Number EO 641489 to Mynor Rocacl Morales Reyes (Respondent). The Smog Check Inspector
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2024, unless renewed.

26 **PRIOR DISCIPLINE**

27 3. On or about March 16, 2016, Accusation No. 79/16-89 was filed against Respondent,
28 alleging various violations of the Business and Professions Code and Health and Safety Code for

1 fraud and deceit in obtaining a license from the Bureau when he provided false personally
2 identifying information in connection with his application for licensure. Effective September 27,
3 2016, pursuant to a Default Decision and Order entitled *In the Matter of the Accusation Against:*
4 *Mynor Roceal Morales* Case No. 79/16-89, Respondent's Smog Check Inspector License No. EO
5 150132 and Smog Check Repair technician License No. EI 150132 were revoked.

6 **JURISDICTION**

7 4. This Accusation is brought before the Director of the Department of Consumer
8 Affairs (Director) for the Bureau, under the authority of the following laws.

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

12 **STATUTORY PROVISIONS**

13 6. Section 477 provides, in pertinent part, that "Board" includes "bureau,"
14 "commission," "committee," "department," "division," "examining committee," "program," and
15 "agency." "License" includes certificate, registration or other means to engage in a business or
16 profession regulated by the Code.

17 7. Section 498 states:

18 A board may revoke, suspend, or otherwise restrict a license on the ground that
19 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a
20 material fact or by knowingly omitting to state a material fact.

21 8. Section 9889.22 of the Code states:

22 The willful making of any false statement or entry with regard to a material
23 matter in any oath, affidavit, certificate of compliance or noncompliance, or
24 application form which is required by this chapter or Chapter 5 (commencing with
25 Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes
26 perjury and is punishable as provided in the Penal Code.

27 9. Section 44059 of the Health and Safety Code states:

28 The willful making of any false statement or entry with regard to a material
matter in any oath, affidavit, certificate of compliance or noncompliance, or
application form which is required by this chapter or Chapter 20.3 (commencing with
Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
and is punishable as provided in the Penal Code.

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10. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

....

(e) Has misrepresented a material fact in obtaining a license.

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

COST RECOVERY

12. Section 125.3 provides, in pertinent part, that a Board 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.

FIRST CAUSE FOR DISCIPLINE

(Misrepresentation of a Material Fact in Obtaining License)

13. Respondent's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (e), in that Respondent misrepresented material facts under penalty of perjury in obtaining his current Smog Check Inspector License Number EO 641489, as follows:

a. On or about September 21, 2018, Respondent answered "No" to question 1. "Has the Department of Consumer Affairs (DCA) or Bureau of Automotive Repair (BAR) ever issued you a license?" By doing so, Respondent failed to disclose that he was issued previous licenses, including Smog Check Inspector License Number EO 150132 and Smog Check Repair Technician license Number EI 150132.

b. On or about September 21, 2018, Respondent answered "No" to question 2, "Have you ever had a license, certificate, or registration denied, suspended, revoked or placed on probation by the DCA or BAR?" In fact, Respondent was previously issued Smog Check

Inspector License Number EO 150132 and Smog Check Repair Technician license Number EI 150132, both of which were revoked.

SECOND CAUSE FOR DISCIPLINE

(Securing License by Deceit or Misrepresentation)

14. Respondent's Smog Check Inspector License is subject to disciplinary action under Code section 498, in that Respondent secured his current Smog Check Inspector License Number EO 641489 by fraud, deceit or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact on his Smog Check Inspector License. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Perjury)

15. Respondent's Smog Check Inspector License is subject to disciplinary action under Code section 9889.22 and Health and Safety Code section 44059, in that on or about Respondent certified under penalty of perjury that all statements made in his Smog Check Inspector license application were true and correct, when in fact they were not. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth fully.

PRAYER

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

1. Revoking or suspending Smog Check Inspector License Number EO 641489, issued to Mynor Rocael Morales Reyes;

2. Revoking or Suspending any additional license issued under the Motor Vehicle Inspection Program in the name of Mynor Rocael Morales Reyes;

3. Ordering Mynor Rocael Morales Reyes to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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4. 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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