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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:
13
14 **VICTOR MANUEL MURILLO DBA**
15 **PRIMOS SMOG**
16 **1447 Ranger Dr.**
17 **Covina, CA 91722**
18 **Automotive Repair Dealer Registration No.**
19 **ARD 292140**
20 **Smog Check, Test Only Station License No.**
21 **TC 292140**

18 and

19 **VINNIE HUYNH**
20 **13184 Concord Dr.**
21 **Victorville, CA 92392**
22 **Smog Check Inspector License No. EO**
23 **643169**

22 Respondents.

Case No. 79/23-6468

14 **DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

24 **FINDINGS OF FACT**

25 1. On or about January 16, 2024, Complainant Patrick Dorais (“Complainant”), in his
26 official capacity as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of
27 Consumer Affairs, filed Accusation No. 79/23-6468 against Victor Manuel Murillo dba Primos
28 Smog (“Respondent Primos Smog”) and Vinnie Huynh (“Respondent Huynh”) before the

Director of the Department of Consumer Affairs (“Director”). (Accusation attached as Exhibit A.)

Victor Manuel Murillo dba Primos Smog

Automotive Repair Dealer Registration

2. On or about September 26, 2018, the Bureau issued Automotive Repair Dealer Registration Number ARD 292140 to Respondent Primos Smog. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 79/23-6468 and will expire on September 30, 2024, however was suspended.

Smog Check, Test Only, Station License

3. On or about October 31, 2018, the Bureau issued Smog Check, Test Only Station License Number TC 292140 to Respondent Primos Smog. The Smog Check, Test Only Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/23-6468 and will expire on September 30, 2024, however was suspended.

STAR Station Certification

4. On or about August 9, 2019, the Bureau certified Primos Smog as a STAR Station and the certification was suspended on May 26, 2023. The STAR Station Certification is no longer suspended. The STAR Station Certification was reinstated on September 14, 2023

Vinnie Huynh

Smog Check Inspector License

5. On or about July 2, 2021, the Bureau issued Smog Check Inspector License Number EO 643169 to Respondent Huynh. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/23-6468 and will expire on February 28, 2025, however was suspended.

OTHER LICENSES

Vicente Paul Guerrero dba Guerrero Smog

Automotive Repair Dealer Registration

6. On or about June 30, 2014, the Bureau issued Automotive Repair Dealer Registration Number ARD 277112 to Vicente Paul Guerrero dba Guerrero Auto (“Guerrero Auto”). The

Automotive Repair Dealer Registration expired on June 30, 2015, and was cancelled on May 18, 2023.

Smog Check Station License

7. On or about July 1, 2014, the Bureau issued Smog Check Station License Number RC 277112 to Guerrero Auto. The Smog Check Station License expired on June 30, 2015, and was cancelled on May 22, 2023.

8. On or about January 17, 2024, Respondent Promos Smog was served by Certified Mail copies of the Accusation No. 79/23-6468, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau. Respondent's address of record was and is: 1447 Ranger Dr., Covina, CA 91722.

9. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505(c) and/or Business and Professions Code section 124.

10. On or about January 17, 2024, Respondent Huynh was served by Certified Mail copies of the Accusation No. 79/23-6468, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau. Respondent's address of record was and is: 13184 Concord Dr., Victorville, CA 92392.

11. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505(c) and/or Business and Professions Code section 124.

12. Government Code section 11506(c) states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

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1 13. The Bureau takes official notice of its records and the fact that Respondent Primos
2 Smog failed to file a Notice of Defense within 15 days after service upon him of the Accusation,
3 and therefore waived his right to a hearing on the merits of Accusation No. 79/23-6468.

4 14. The Bureau takes official notice of its records and the fact that Respondent Huynh
5 failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and
6 therefore waived his right to a hearing on the merits of Accusation No. 79/23-6468.

7 15. California Government Code section 11520(a) states, in pertinent part:

8 (a) If the respondent either fails to file a notice of defense . . . or to appear at
9 the hearing, the agency may take action based upon the respondent's express
10 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

11 16. Pursuant to its authority under Government Code section 11520, the Director after
12 having reviewed the proof of service dated January 17, 2024, signed by Alfred Palma finds
13 Respondents Primos Smog and Huynh are in default. The Director will take action without further
14 hearing and, based on the relevant evidence contained in the Default Decision Investigatory
15 Evidence Packet in this matter, finds that the charges and allegations in Accusation No.
16 79/23-6468, are separately and severally, found to be true and correct by clear and convincing
17 evidence.

18 **DETERMINATION OF ISSUES**

19 1. Based on the foregoing findings of fact, Respondents Victor Manuel Murillo dba
20 Primos Smog and Vinnie Huynh have subjected their Automotive Repair Dealer Registration No.
21 ARD 292140, Smog Check, Test Only Station License No. TC 292140 and Smog Check
22 Inspector License No. EO 643169 to discipline.

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Director of the Department of Consumer Affairs is authorized to revoke
25 Respondents' Automotive Repair Dealer Registration, Smog Check, Test Only Station and Smog
26 Check Inspector License based upon the following violations alleged in the Accusation which are
27 supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this
28 case:

- 1 a. Business and Professions Code section 9884.7, subdivision (a)(1) (Untrue or
2 Misleading Statements)
- 3 b. Business and Professions Code section 9884.7, subdivision (a)(4) (Fraud).
- 4 c. Business and Professions Code section 9884.7, subdivision (a)(6) (Material Violation
5 of Automotive Repair Act).
- 6 d. Health and Safety Code sections 44072.2, subdivision (a), 44012, and 44015,
7 subdivision (b) (Violations of the Motor Vehicle Inspection Program).
- 8 e. Health and Safety Code sections 44072.2, subdivision (c) and California Code of
9 Regulation, title 16, sections 3340.24, subdivision (c), 3340.30, subdivision (a),
10 3340.35, subdivision (c), 3340.41, subdivision (c) and 3340.42 (Failure to Comply
11 with Regulations Pursuant to the Motor Vehicle Inspection Program).
- 12 f. Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
13 and Safety Code section 44072.10, subdivision (c) (Dishonesty, Fraud or Deceit).
- 14 g. Health and Safety Code sections 44072.2, subdivision (a), 44032, and 44015,
15 subdivision (b) (Violations of the Motor Vehicle Inspection Program).

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ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 292140 and Smog Check, Test Only Station License No. TC 292140, issued to Respondent Victor Manuel Murillo dba Primos Smog, are revoked.

IT IS SO ORDERED that Smog Check Inspector License No. EO 643169, issued to Respondent Vinnie Huynh, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents Primos Smog and Huynh may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondents. The motion should be sent to the Bureau of Automotive Repair, ATTN: Patrick Lutfi, 10949 North Mather Boulevard, Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 24, 2024.

It is so ORDERED April 16, 2024

Signed Copy on File

GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Division of Legal Affairs
Department of Consumer Affairs

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DOJ Matter ID:LA2024600019

Attachment:
Exhibit A: Accusation