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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. 79/25-2839

13 **SHIVA AUTO REPAIR- a Partnership**
14 **ASANH VOONG – Partner**
15 **NEELAM SHARMA – Partner**
16 118 S Spruce Ave
South San Francisco, CA 94080

ACCUSATION

17 **Automotive Repair Dealership Registration No. ARD 191374**
18 **Smog Check Station License No RC 191374**

19 **BALRAM KUMAR**
20 571 Myrtle Avenue
South San Francisco, CA 94080

21 **Smog Check Inspector License No. EO 32750**
22 **Smog Check Repair Technician License No. EI 32750**

23 **And**

24 **DANIEL VAZQUEZ**
25 1880 Edinburgh St.
San Mateo, CA 94403

26 **Smog Check Inspector License No. EO 641351**

Respondents.

27 **PARTIES**

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

1 2. On or about October 9, 1996, the Bureau of Automotive Repair issued Automotive
2 Repair Dealer Registration Number ARD 191374 to a partnership of Asanh Voong and Neelam
3 Sharma dba Shiva Auto Repair (Respondent Shiva). The Automotive Repair Dealer Registration
4 was in full force and effect at all times relevant to the charges brought herein and will expire on
5 October 31, 2026, unless renewed.

6 3. On or about October 29, 1996, the Bureau of Automotive Repair issued Smog Check,
7 Test-and Repair, Station License Number RC 191374 to Respondent Shiva. The Smog Check,
8 Test-and Repair, Station License was in full force and effect at all times relevant to the charges
9 brought herein and will expire on October 31, 2026, unless renewed. On or about August 2,
10 2016, the Respondent Shiva's Smog Check Station License was STAR certified.

11 4. In 1999, the Bureau issued Advanced Emission Specialist Technician License
12 Number EA 32750 to Balram Kumar (Respondent Kumar). The Advanced Emission Specialist
13 Technician License was cancelled on February 7, 2014. Pursuant to California Code of
14 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
15 respondent's election, as Smog Check Inspector License Number EO 32750 and Smog Check
16 Repair Technician License Number EI 32750, effective February 7, 2014. The Smog Check
17 Inspector license and Smog Check Repair Technician License were in full force and effect at all
18 times relevant to the charges brought herein and will expire on April 30, 2026, unless renewed.

19 5. On or about August 24, 2018, the Bureau of Automotive Repair issued Smog Check
20 Inspector License Number EO 641351 to Daniel Vasquez (Respondent Vasquez). The Smog
21 Check Inspector License was in full force and effect at all times relevant to the charges brought
22 herein and will expire on July 31, 2026, unless renewed.

23 **JURISDICTION**

24 6. This Accusation is brought before the Director of the Department of Consumer
25 Affairs (Director) for the Bureau, under the authority of the following laws.

26 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
27 surrender, and/or cancellation of a license shall not deprive the Director of jurisdiction to proceed
28

1 with a disciplinary action during the period within which the license may be renewed, restored,
2 reissued or reinstated.

3 8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
4 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
5 proceeding against an automotive repair dealer or to render a decision invalidating a registration
6 temporarily or permanently.

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

10 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
11 expiration or suspension of a license by operation of law, or by order or decision of the Director
12 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
13 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
14 proceedings against the licensee, or to render a decision suspending or revoking the license.

15 **STATUTORY PROVISIONS**

16 11. Section 9884.7 of the Code states:

17 (a) The director, if the automotive repair dealer cannot show there was a bona
18 fide error, may deny, suspend, revoke, or place on probation the registration of an
19 automotive repair dealer for any of the following acts or omissions related to the
20 conduct of the business of the automotive repair dealer, which are done by the
21 automotive repair dealer or any automotive technician, employee, partner, officer, or
22 member of the automotive repair dealer:

23 (1) Making or authorizing in any manner or by any means whatever any
24 statement written or oral which is untrue or misleading, and which is known, or which
25 by the exercise of reasonable care should be known, to be untrue or misleading.

26 . . .

27 (4) Any other conduct that constitutes fraud.

28 . . .

(6) Failure in any material respect to comply with the provisions of this chapter
or regulations adopted pursuant to it.

. . .

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place

on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

...

(e) For purposes of this section, "fraud" includes, but is not limited to, violations of this chapter involving misrepresentations and all of the following:

(1) Any act or omission that is included within the definition of either "actual fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573 of the Civil Code.

(2) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(3) A promise or representation not made honestly and in good faith.

(4) An intentional failure to disclose a material fact.

(5) Any act in violation of Section 484 of the Penal Code

12. Section 44012 of the Health and Safety Code states:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas, and shall ensure all of the following:

...

13. Section 44032 of the Health and Safety Code states:

No person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person performing the test or repair is a qualified smog check technician and the test or repair is performed at a licensed smog check station. Qualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

14. Section 44072.2 of the Health and Safety Code states:

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:

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, "44000, et seq.)] 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.

...

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

15. Section 44072.8 of the Health and Safety Code states:

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

16. Section 44072.10, of the Health and Safety Code states, in pertinent part:

...

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

(1) Clean piping, clean plugging, clean glassing, clean tanking, or any other fraudulent inspection practice, as defined by the department.

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

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

...

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 3340.1, states:

...

"Clean plugging" means using a substitute vehicle's OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle.

...

18. California Code of Regulations, title 16, section 3340.24, states:

(a) Any disciplinary or reinstatement proceeding under this article involving

1 licensed stations, licensed technicians, or fleet owners licensed pursuant to section
2 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5
(commencing with section 11500) of division 3, Title 2 of the Government Code.

3 ...

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

6 ...

7 19. California Code of Regulations, title 16, section 3340.30, states:

8 A smog check technician shall comply with the following requirements at all
9 times while licensed.

10 (a) A licensed technician shall inspect, test and repair vehicles in accordance
11 with section 44012 of the Health and Safety Code, section 44035 of the Health and
Safety Code, and section 3340.42 of this article.

12 ...

13 20. California Code of Regulations, title 16, section 3340.41, states:

14 ...

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

17 ...

18 (h) No licensed station shall have in the approved testing area at any time
19 any electronic device or software capable of simulating the OBD data stream from a
vehicle or manipulating OBD VIN, calibration identification, calibration verification
20 number, MIL-status, readiness, or diagnostic trouble codes collected from a vehicle
during a Smog Check Inspection.

21 ...

22 21. California Code of Regulations, title 16, section 3340.42, states:

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

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

27 ...

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

3340.42.2.

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

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

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

22. California Code of Regulations, title 16, section 3340.45, states:

All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.

COST RECOVERY

23. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

SMOG PROGRAM AND CLEAN PLUGGING ALLEGATIONS

24. California's Smog Check Program requires the owners of most motor vehicles in California to take and pass a Smog Check inspection and receive a Certificate of Compliance every two years when renewing their registration and also when the vehicle's title is transferred. These inspections are performed by Smog Check Inspectors at Smog Check Stations, both of which are licensed by BAR.

25. The Smog Check inspection in certain Enhanced areas of the State is an Acceleration Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons, Carbon Monoxide, Oxides of Nitrogen, Carbon Dioxide, and Oxygen. The inspection involves a test of the vehicle's tailpipe emissions on a dynamometer. In Basic areas of the State, or depending on a

1 vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed
2 Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a
3 dynamometer, the EIS measures the emissions at idle as well as 2500 revolutions per minute
4 (RPM).

5 26. The inspector also performs visual and functional tests on the vehicle as outlined in
6 the Smog Check Manual. The visual inspection of the emission control components verifies the
7 required emission control devices are present and properly connected. Functional tests are also
8 performed which, depending on the vehicle, may include checking the ignition timing,
9 malfunction indicator light (MIL), Exhaust Gas Recirculation (EGR) system, a low-pressure test
10 of the evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas
11 cap.

12 27. On March 9, 2015, BAR implemented a statewide regulatory change requiring the use
13 of the On-Board Diagnostic Inspection System (BAR-OIS) instead of the EIS for the smog testing
14 of 2000 model year and newer gas powered and 1998 and newer diesel vehicles. Most older
15 vehicles require the ASM or TSI test on the EIS. Gas powered vehicles with a gross vehicle
16 weight rating over 14,000 pounds require an inspection on the EIS.

17 28. The newer BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
18 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
19 vehicle's On-Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR
20 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
21 vehicle. The bar code scanner is used to input technician information, the vehicle identification
22 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
23 Reports.

24 29. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
25 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
26 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
27 PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the
28 number of specific data values each PCM uses related to emissions controls.

1 30. As part of the BAR-OIS smog inspections, the technician also performs a visual and
2 functional test on the vehicle being inspected. The visual inspection of the emission control
3 components verifies the required emission control devices are present and properly connected and
4 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
5 makes the determination whether or not the vehicle passes the inspection based on the results of
6 the OBD, visual and functional tests. If the vehicle passes the inspection a certificate of
7 compliance is issued. The information from the smog inspection is then transmitted to the
8 Vehicle Information Data (VID).

9 31. BAR can access the VID to view test data on smog check inspections performed at
10 any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle
11 which has been tested.

12 32. BAR has become aware of methods some Smog Check stations and Smog Check
13 inspectors use to issue smog certificates to vehicles that will not pass a Smog Check test on their
14 own, or in some instances, are not even present during the time the test is performed.

15 33. One method is known as "clean plugging." "Clean plugging" is the act of using one
16 vehicle's properly functioning OBD II system, or another source such as an electronic defeat
17 device, to generate passing data readings or diagnostic information for the purpose of issuing a
18 smog certificate of compliance to a vehicle that is not in smog compliance and/or not being
19 tested. The vehicle being certified is not the one being tested.

20 34. In February 2025, the BAR initiated an investigation of Respondent Shiva's smog
21 check station. The investigation revealed Respondent Kumar performed eight smog inspections
22 at Respondent Shiva's smog check station using clean-plugging methods. The investigation
23 revealed Respondent Vasquez performed two smog inspections at Respondent Shiva's smog
24 check station using clean-plugging methods. Respondent Shiva's smog check station issued ten
25 certificates of compliance to the clean plugged vehicles.

26 35. A Bureau representative reviewed data for the clean-plugged vehicles inspected by
27 Respondents. The data revealed that the ten vehicles that were purportedly tested by Respondents
28 were not and could not have been connected to the DAD when they were being certified because

the OBD-II data purportedly transmitted by those vehicles could not have been transmitted by those vehicles.

36. Respondents clean plugged and issued certificates of compliance to the following vehicles:

a) Clean Plug# 1 – 2010 Toyota Prius (Tested by Respondent Vasquez)

Certificate # TY120156C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (May 15, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (4/14/2023)	JTDKN3DU1A0184066	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU1A0184066	ICAN11bt5	37 24 39 24

b) Clean Plug #2 – 2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # TY314102C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (May 21, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (9/15/2023)	JTDKN3DU7A5157036	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU7A5157036	ICAN11bt5	39 24

c) Clean Plug #3—2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UA306807C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (July 9, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (9/8/2022)	JTDKN3DU0A5082647	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU0A5082647	ICAN11bt5	39 24

d) Clean Plug #4—2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # IZ893193C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (August 26, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (10/27/2022)	JTDKN3DU6A1261797	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU6A1261797	ICAN11bt5	39 24

e) Clean Plug #5—2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UC765017C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (September 7, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (3/31/2023)	JTDKN3DU9A0057808	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU9A0057808	ICAN11bt5	37 24 39 24

f) Clean Plug #6—2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UC765018C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (September 7, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (9/6/2024)	JTDKN3DU3A0004845	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU3A0004845	ICAN11bt5	37 24 39 24

g) Clean Plug #7—2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UE024941C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (September 21, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (8/31/2024)	JTDKN3DU6A5184938	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU6A5184938	ICAN11bt5	39 24

h) Clean Plug #8— 2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UE024942C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (September 21, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (11/10/2023)	JTDKN3DU3A0005767	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU3A0005767	ICAN11bt5	37 24 39 24

i) Clean Plug #9—2010 Toyota Prius (Tested by Respondent Vasquez)

Certificate # UE309892C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (September 30, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (2/3/2023)	JTDKN3DU5A0054517	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU5A0054517	ICAN11bt5	37 24 39 24

j) Clean Plug #10— 2010 Toyota Prius (Tested by Respondent Kumar)

Certificate # UE981398C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2010 Toyota Prius (November 5, 2024)	Not reported	ICAN11bt5	39 27
Previous Inspection of the 2010 Toyota Prius (5/12/2023)	JTDKN3DU9A0183053	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DU9A0183053	ICAN11bt5	37 24 39 24

37. In August 2025, the BAR performed a supplemental investigation of Respondent Shiva's smog check station. The investigation revealed Respondent Kumar performed two smog inspections at Respondent Shiva's smog check station using clean-plugging methods. The supplemental investigation revealed Respondent Vasquez performed two smog inspections at Respondent Shiva's smog check station using clean-plugging methods Respondent Shiva's smog check station issued four certificates of compliance to the clean plugged vehicles.

38. A Bureau representative reviewed data for the clean-plugged vehicles inspected by Respondents. The data revealed that the four vehicles that were purportedly tested by Respondents were not and could not have been connected to the DAD when they were being certified because the OBD-II data purportedly transmitted by those vehicles could not have been transmitted by those vehicles.

39. Respondents clean plugged and issued certificates of compliance to the following vehicles:

a) Clean Plug# 11 – 2007 Honda Civic LX (Tested by Respondent Vasquez)

Certificate # TS537883C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2007 Honda Civic LX (February 13, 2024)	1HGCM66876A055051	I914	24
Inspection Data of Vehicle Used in the Fraudulent Inspection- 2006 Honda Accord EX (02/13/2024)	1HGCM66876A055051	I914	24
2007 Honda Civic LX Expected OBD II Value	1HGFA16537L086088	ICAN29bt5	39 19

b) Clean Plug #12 – 2016 Mercedes Benz E 350 (Tested by Respondent Vasquez)

Certificate # UA574298C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2016 Mercedes Benz E 350 (July 23, 2024)	JM1DKBC79G0119630	ICAN11bt5	46 17
Inspection Data of Vehicle Used in the Fraudulent Inspection 2016 Mazda CX-3 Touring (09/21/2024)	JM1DKBC79G0119630	ICAN11bt5	46 17
2016 Mercedes Benz E350 Expected OBDII Value	WDDHF5KB9GB177650	ICAN11bt5	44 12 13 46 12 13 or 46 12 14

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c) Clean Plug #13—2016 Ford Fusion Titanium Phev (Tested by Respondent Kumar)

Certificate # UE981358C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2016 Ford Fusion Titanium Phev (October 29, 2024)	2GTEK69U211364757	JVPW	22
Inspection Data of Vehicle Used in the Fraudulent Inspection 2001 GMC Sierra K1500 C3 (10/29/2024)	2GTEK69U211364757	JVPW	22
2016 Ford Fusion Titanium Phev Expected OBD II Value	3FA6P0SU6GR230020	ICAN11bt5	43 0 15 14

d) Clean Plug #14— 2005 Toyota Tundra Double Cab Limited (Tested by Respondent Kumar)

Certificate # UM143793C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection 2005 Toyota Tundra Double Cab Limited (April 3, 2025)	5TBDT48126S550439	ICAN11bt500	47
Inspection Data of Vehicle Used in the Fraudulent 2006 Toyota Tundra Double Cab Limited (04/13/2024)	5TBDT48126S550439	ICAN11bt500	47
2005 Toyota Tundra Double Cab Limited Expected OBD II Value	5TBDT48135S486331	ICAN11bt500	45

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements - Registration)

40. Respondent Shiva has subjected its Automotive Repair Dealer Registration to discipline under Code section 9884.7, subdivision (a)(1), in that Respondent Shiva made statements which it knew or which by exercise of reasonable care should have known were untrue or misleading, as set forth above in the Smog Program and Clean Plugging Allegations.

1 Respondent Shiva purported to test vehicles, and certified that the vehicles passed inspection and
2 were in compliance with applicable laws and regulations. In fact, Respondent conducted the
3 inspections on those vehicles using clean-plugging methods.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud - Registration)**

6 41. Respondent Shiva has subjected its Automotive Repair Dealer Registration to
7 discipline under Code section 9884.7, subdivision (a)(4), in that it committed acts which
8 constitute fraud, as set forth above in the Smog Program and Clean Plugging Allegations.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(False or Misleading Records-Registration)**

11 42. Respondent has Shiva subjected its Automotive Repair Dealer Registration to
12 discipline under Code section 9884.7, subdivision (a)(6), in that it violated California Code of
13 Regulations, title 16, section 3373, by creating and issuing false or misleading certificates of
14 compliance and vehicle inspection reports for the vehicles that were clean plugged as set forth
15 above in the Smog Program and Clean Plugging Allegations. The certificates and inspection
16 reports indicated the vehicles were tested in accordance with all Bureau requirements and the
17 vehicles were qualified to receive certificates of compliance. This was false as the vehicles were
18 clean plugged.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud or Deceit – Smog Station License)**

21 43. Respondent Shiva has subjected its Smog Check Station License to discipline under
22 Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that it committed
23 acts involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
24 certificates of compliance for vehicles without performing bona fide inspections of the emission
25 control devices and systems on the vehicles, thereby depriving the People of the State of
26 California of the protection afforded by the Motor Vehicle Inspection Program. Respondent
27 Shiva participated in clean-plugging as set forth above in the Smog Program and Clean Plugging
28 Allegations above.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program- Smog Station License)**

3 44. Respondent Shiva has subjected its Smog Check Station License to discipline under
4 Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that it
5 violated sections of that Code and applicable regulations, through conduct described in the Smog
6 Program and Clean Plugging Allegations, as follows:

7 a. **Section 44012:** Respondent failed to ensure that smog inspections were performed
8 on vehicles in accordance with procedures prescribed by the department.

9 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
10 electronic certificates of compliance to certain vehicles without performing bona fide inspections
11 of the emission control devices and systems on those vehicles.

12 c. **Section 3340.41, subdivision (c):** Respondent entered false information about
13 vehicles being tested into OIS.

14 d. **Section 3340.42:** Respondent failed to conduct the required smog tests and
15 inspections on certain vehicles in accordance with the Bureau's specifications.

16 e. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
17 Manual by entering vehicle identification information for a vehicle that was not being tested.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Dishonesty, Fraud or Deceit – Smog Check Licenses-Kumar)**

20 45. Respondent Kumar has subjected his Smog Check Inspector License and Smog
21 Check Repair Technician License to discipline under Health and Safety Code sections 44072.10
22 and/or 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or deceit,
23 whereby another was injured by issuing electronic certificates of compliance for vehicles without
24 performing bona fide inspections of the emission control devices and systems on the vehicles,
25 thereby depriving the People of the State of California of the protection afforded by the Motor
26 Vehicle Inspection Program. Respondent Kumar participated in clean-plugging as set forth above
27 in the Smog Program and Clean Plugging Allegations above.

28 ///

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program- Smog Check Licenses- Kumar)**

3 46. Respondent Kumar has subjected his Smog Check Inspector License to discipline
4 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that
5 he violated sections of that Code and applicable regulations, through conduct described in the
6 Smog Program and Clean Plugging Allegations, as follows:

7 a. **Section 44032:** Respondent failed to ensure that smog inspections were performed
8 on vehicles in accordance with procedures prescribed by the department.

9 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
10 electronic certificates of compliance to certain vehicles without performing bona fide inspections
11 of the emission control devices and systems on those vehicles.

12 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
13 accordance with Health and Safety Code section 44012 and California Code of Regulations, title
14 16, section 3340.42.

15 d. **Section 3340.41, subdivision (c):** Respondent entered false information about
16 vehicles being tested into OIS.

17 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
18 inspections on certain vehicles in accordance with the Bureau's specifications.

19 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
20 Manual by entering vehicle identification information for a vehicle that was not being tested.

21 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
22 Certificates of compliance and on the Vehicle Inspection Reports.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud or Deceit – Smog Check Inspector - Vasquez)**

25 47. Respondent Vasquez has subjected his Smog Check Inspector License to discipline
26 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that he
27 committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing
28 electronic certificates of compliance for vehicles without performing bona fide inspections of the

1 emission control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program. Respondent
3 Vasquez participated in clean-plugging as set forth above in the Smog Program and Clean
4 Plugging Allegations above.

5 **NINETH CAUSE FOR DISCIPLINE**

6 **(Violation of the Motor Vehicle Inspection Program- Smog Check Inspector License-**
7 **Vasquez)**

8 48. Respondent Vasquez has subjected his Smog Check Inspector License to discipline
9 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that
10 he violated sections of that Code and applicable regulations, through conduct described in the
11 Smog Program and Clean Plugging Allegations, as follows:

12 a. **Section 44032:** Respondent failed to ensure that smog inspections were performed on
13 vehicles in accordance with procedures prescribed by the department.

14 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
15 electronic certificates of compliance to certain vehicles without performing bona fide inspections
16 of the emission control devices and systems on those vehicles.

17 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
18 accordance with Health and Safety Code section 44012 and California Code of Regulations, title
19 16, section 3340.42.

20 d. **Section 3340.41, subdivision (c):** Respondent entered false information about
21 vehicles being tested into OIS.

22 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
23 inspections on certain vehicles in accordance with the Bureau's specifications.

24 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
25 Manual by entering vehicle identification information for a vehicle that was not being tested.

26 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
27 Certificates of compliance and on the Vehicle Inspection Reports.

28 ///

1 **OTHER MATTERS**

2 49. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
3 or place on probation the registration for all places of business operated in this state by
4 Respondent Shiva upon a finding that Respondent has, or is, engaged in a course of repeated and
5 willful violations of the laws and regulations pertaining to an automotive repair dealer.

6 50. Pursuant to Health & Safety Code section 44072.8, if Respondent Shiva's Smog
7 Check Station License is revoked or suspended, any additional license issued under Chapter 5 of
8 Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
9 revoked or suspended by the director.

10 51. Pursuant to Health & Safety Code section 44072.8, if Respondent Kumar's Smog
11 Check Inspector License and/or Smog Check Repair Technician License is revoked or suspended,
12 any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety
13 Code in the name of said licensee may be likewise revoked or suspended by the director.

14 52. Pursuant to Health & Safety Code section 44072.8, if Respondent Vasquez's Smog
15 Check Inspector License is revoked or suspended, any additional license issued under Chapter 5
16 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be
17 likewise revoked or suspended by the director.

18 **DISCIPLINARY CONSIDERATIONS**

19 53. To determine the degree of discipline, if any, to be imposed on Respondents Shiva
20 and Kumar, Complainant alleges that on or about October 28, 2014, the Bureau held a Proactive
21 Conference with Respondent Shiva (Asanh Voong, Neelam Sharma) and Respondent Kumar.
22 Respondent Shiva and Respondent Kumar were advised to follow all laws and regulations under
23 the Automotive Repair Act and were warned that failure to do so could result in disciplinary
24 action. Respondents Shiva and Kumar were instructed to perform all Smog Inspections in
25 accordance with the procedures prescribed by the department.

26 54. To determine the degree of discipline, if any, to be imposed on Respondents Shiva,
27 Complainant alleges that on or about July 25, 2019, the Bureau held a Proactive Conference with
28 Respondent Shiva (Asanh Voong). Respondent Shiva was advised to follow all laws and

1 regulations under the Automotive Repair Act and were warned that failure to do so could result in
2 disciplinary action. Respondent Shiva was instructed to perform all Smog Inspections in
3 accordance with the procedures prescribed by the department.

4 55. To determine the degree of discipline imposed upon Respondent Shiva, Complainant
5 alleges that Respondent Shiva was issued citation number C2014-0038. That citation became
6 effective July 30, 2014.

7 56. To determine the degree of discipline imposed upon Respondent Shiva, Complainant
8 alleges that Respondent Shiva was issued citation number C2014-00417. That citation became
9 effective July 30, 2014.

10 57. To determine the degree of discipline imposed upon Respondent Shiva, Complainant
11 alleges that Respondent Shiva was issued citation number C2019-1700. That citation became
12 effective May 20, 2020.

13 58. To determine the degree of discipline imposed upon Respondent Shiva, Complainant
14 alleges that Respondent Shiva was issued citation number C2019-2005. That citation became
15 effective July 29, 2020.

16 59. To determine the degree of discipline imposed upon Respondent Kumar,
17 Complainant alleges that Respondent Kumar was issued citation number M2014-0039. That
18 citation became effective July 30, 2014.

19 60. To determine the degree of discipline imposed upon Respondent Kumar,
20 Complainant alleges that Respondent Kumar was issued citation number M2014-00418. That
21 citation became effective July 30, 2014.

22 61. To determine the degree of discipline imposed upon Respondent Kumar,
23 Complainant alleges that Respondent Kumar was issued citation number M2019-2006. That
24 citation became effective July 29, 2020.

25 **PRAYER**

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

- 1 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 2 191374, issued to the partnership of Asanh Voong and Neelam Sharma dba Shiva Auto Repair;
- 3 2. Revoking or suspending Smog Check, Test-and Repair, Station Number RC 191374,
- 4 issued to the partnership of Asanh Voong and Neelam Sharma dba Shiva Auto Repair;
- 5 3. Revoking or suspending any additional Automotive Repair Dealer Registration(s)
- 6 issued to the partnership of Asanh Voong and Neelam Sharma;
- 7 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 8 Division 26 of the Health and Safety Code to the partnership of Asanh Voong and Neelam
- 9 Sharma;
- 10 5. Ordering the partnership of Asanh Voong and Neelam Sharma pay the Bureau of
- 11 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
- 12 pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of
- 13 probation monitoring;
- 14 6. Revoking or suspending Smog Check Repair Technician License Number EI 032750,
- 15 issued to Balram Kumar;
- 16 7. Revoking or suspending Smog Check Inspector License Number EO 032750, issued
- 17 to Balram Kumar;
- 18 8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 19 Division 26 of the Health and Safety Code to Belram Kumar;
- 20 9. Ordering Belram Kumar pay the Bureau of Automotive Repair the reasonable costs of
- 21 the investigation and enforcement of this case, pursuant to Business and Professions Code section
- 22 125.3 and if placed on probation, the costs of probation monitoring;
- 23 10. Revoking or suspending Smog Check Inspector License Number EO 641351, issued
- 24 to Daniel Vazquez;
- 25 11. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 26 Division 26 of the Health and Safety Code to Daniel Vazquez;
- 27
- 28

1 12. Ordering Daniel Vazquez pay the Bureau of Automotive Repair the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3 and if placed on probation, the costs of probation monitoring;

4 and,

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

6
7 DATED: As of Digital Signature Date____

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2025.11.15 17:49:19 -08'00'

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

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