BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **STRESSLESS SMOG,** **RON J. BRYMER, OWNER** 3927 Marysville Blvd Sacramento, CA 95838 Mailing Address: P.O. Box 509 Rio Linda, California 95673 Automotive Repair Dealer No. ARD 217052 Smog Check Station No. RC 217052 **RON J. BRYMER** P.O. Box 509 Rio Linda, California 95673 Smog Check Inspector License No. EO 144259 Smog Check Repair Technician License No. EI 144259 (formerly Advanced Emission Specialist Technician License No. EA 144259) Respondents.	Case No. 79/14-89

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective August 20, 2014.

DATED: July 30, 2014

DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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

In the Matter of the Accusation Against: **STRESSLESS SMOG,** **RON J. BRYMER, OWNER** 3927 Marysville Blvd Sacramento, CA 95838 Mailing Address: P.O. Box 509 Rio Linda, California 95673 **Automotive Repair Dealer No. ARD 217052** **Smog Check Station No. RC 217052** **RON J. BRYMER** P.O. Box 509 Rio Linda, California 95673 **Smog Check Inspector License No. EO 144259** **Smog Check Repair Technician License No. EI 144259 (formerly Advanced Emission Specialist Technician License No. EA 144259)** Respondents.	Case No. 79/14-89 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Respondent Stressless Smog, Ron J. Brymer, Owner ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 20, 2001, the Bureau of Automotive Repair issued Automotive Repair Dealer No. ARD 217052 to Stressless Smog, Ron J. Brymer, Owner (Respondent). The Automotive Repair Dealer was in full force and effect at all times relevant to the charges brought in Accusation No.79/14-89 and will expire on July 31, 2014, unless renewed.

4. On or about August 31, 2001, the Bureau of Automotive Repair issued Smog Check Station No. RC 217052 to Stressless Smog, Ron J. Brymer, Owner (Respondent). The Smog Check Station was in full force and effect at all times relevant to the charges brought in Accusation No. 79/14-89 and will expire on July 31, 2014, unless renewed.

5. On or about January 1, 2001, the Bureau of Automotive Repair issued Smog Check Technician License No. EA 144259 to Ron J. Brymer, (Respondent Brymer). The Smog Check Technician was in full force and effect at all times relevant to the charges brought in Accusation No. 79/14-89 and pursuant to California Code of Regulations, Title 16, Section 3340.28, Respondent renewed Smog Check Technician License No. EA 144259 as Smog Check Inspector License EO 144259 and Smog Check Repair Technician License No. EI 144259 and are in full force and effect and expire on January 31, 2016, unless renewed.[1]

JURISDICTION

6. Accusation No. 79/14-89 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Ron Brymer

[1] Effective August 1, 2012, California Code of Regulations, Title 16, Sections 3340.28, 3340.29 and 3340.30 were amended to implement a license restructure from the Advance Emission Specialist Technician (EA) license and Basic Are (EB) Technician license to Smog Check Inspector (EO) license and / or Smog Check Repair Technician (EI) license.

Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on April 25, 2014. Respondents timely filed their Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 79/14-89 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondents have carefully read, and understand the charges and allegations in Accusation No. 79/14-89. Respondents have also carefully read, and understand the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

10. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

11. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/14-89.

12. Respondents agree that their Automotive Repair Dealer Registration, Smog Check Station license, Smog Check Inspector, and Smog Check Repair licenses are subject to discipline and they agrees to be bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondents understand and agree that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondents understands and agrees that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. The Bureau agrees that they will waive seeking costs concurrent with the revocation and further agrees that the costs in the amount of $6,341.09 shall be payable upon an application for registration, application for licensure, or petition to reinstate respondents' registration or license.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer No. ARD 217052, Smog Check Station No. RC 217052, issued to Respondents Stressless Smog, Ron J. Brymer, Owner (Respondents) are revoked.

IT IS FURTHER ORDERED that Smog Check Inspector License No. EO 144259 and Smog Check Repair License No. EI 144259 issued to Ron J. Brymer, (Respondent Brymer) are revoked.

IT IS FURTHER ORDERED that the costs in the amount of $6,341.09 shall be payable upon an application for registration, application for licensure, or petition to reinstate respondents' registration or licenses.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer, and Smog Check Station, Smog Check Inspector, and Smog Check Repair licenses. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 7-2-14

STRESSLESS SMOG, RON J. BRYMER,
OWNER/TECHNICIAN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs

Dated: July 10, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/14-89

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Patrick Dorais ("Complainant") alleges:

PARTIES

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

Ron J. Brymer, Owner of Stressless Smog

2. On or about August 20, 2001, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 217052 to Ron J. Brymer, owner of Stressless Smog ("Respondent").

The automotive repair dealer registration was in full force and effect at all times relevant to the charge brought herein and will expire on July 31, 2014, unless renewed.

3. On or about August 31, 2001, the Bureau issued Smog Check Station License Number RC 217052 to Respondent. The smog check station license was in full force and effect at all times relevant to the charge brought herein and will expire on July 31, 2014, unless renewed.

Ron J. Brymer

4. In or around 2001, the Bureau issued Advanced Emission Specialist Technician License Number EA 144259 to Ron J. Brymer. Brymer's advanced emission specialist technician license was due to expire on January 31, 2014. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Brymer's election, as Smog Inspector License No. EO 144259 and Smog Check Repair Technician License No. EI 144259 ("technician licenses"), effective January 7, 2014. Respondent's technician licenses will expire on January 31, 2016, unless renewed.[1]

JURISDICTION

5. Business and Professions Code ("Code") section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

6. Code section 9884.13 states:

> The expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

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[1] Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (E1) license.

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

8. Health and Safety Code section 44072.6 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.

9. Health and Safety Code section 44072.8 states that, "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."

10. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that:

> "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this regulation, the license may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

STATUTORY AND REGULATORY PROVISIONS

11. Code section 9884.7 states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> (4) Any other conduct that constitutes fraud.
>
> (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.

12. Code section 9884.9, subdivision (a), provides that:

> The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. . . ."

13. Code section 22, subdivision (a), states:

> "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

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

15. Health & Safety Code section 44072.2 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:
>
> (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Safety 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.

16. Health & Safety Code section 44072.10 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:
>
> (4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter . . .

17. Health & Safety Code section 44072.8 states that 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.

COST RECOVERY

18. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate 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.

UNDERCOVER OPERATION #1

19. On or about June 12, 2013, a Bureau undercover operator (the "operator") took the Bureau's 1985 Chevrolet to Respondent's facility, Stressless Smog, and requested a smog inspection. The operator signed but did not receive a copy of the written estimate before Respondent performed work on the vehicle. Respondent allegedly performed the smog inspection. The operator paid $60 and received a copy of the invoice and a Vehicle Inspection Report.

20. The Bureau obtained information from the vehicle information database showing that Respondent performed a smog inspection on the 1985 Chevrolet on June 12, 2013, between 10:56 and 11:09 hours, resulting in the issuance of electronic smog Certificate of Compliance No. [redacted]

21. The Bureau determined that the certificate of compliance was fraudulently issued in that the vehicle was precluded from passing a lawful smog inspection because the air injection reactor ("AIR") pump was rendered inoperative and the AIR belt was improperly installed on the vehicle in a manner that could be visually detected.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

22. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading. Specifically, Respondent certified under penalty of perjury that the Bureau's 1985 Chevrolet had passed a smog inspection and was in compliance with applicable laws and regulations. In fact, the AIR system had been rendered inoperable and the vehicle would not pass the inspection required by

Health & Safety Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

23. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without ensuring that a bona fide inspection was performed of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Failure to Provide a Written Estimate)

24. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9, subdivision (a), in a material respect. Specifically, Respondent failed to provide the operator with a written estimate before performing the smog inspection on the Bureau's 1985 Chevrolet, as set forth in paragraph 19, above.

FOURTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program – Code Violations)

25. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

a. **Section 44012, subdivision (a):** Respondent failed to ensure that the emission control tests were performed on the Bureau's 1985 Chevrolet in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health & Safety Code section 44012.

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FIFTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Regulation Violations)

26. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet even though the vehicle had not been inspected in accordance with section 3340.42.

b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were conducted on the Bureau's 1985 Chevrolet in accordance with the Bureau's specifications.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

27. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without ensuring that a bona fide inspection was performed of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SEVENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Code Violations)

28. Respondent's technician license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2013, regarding the Bureau's 1985 Chevrolet, Respondent violated sections of that Code as follows:

a. **Section 44012, subdivision (f)**: Respondent failed to perform on the vehicle a visual and/or functional check of the emission control devices in accordance with required procedures.

b. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on the vehicle in accordance with Code section 44012, in that the vehicle's AIR

system had been rendered inoperable.

EIGHTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Regulation Violations)

29. Respondent's technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2013, regarding the Bureau's 1985 Chevrolet, Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

b. **Section 3341.41, subdivision (c)**: Respondent knowingly entered false information into the emission inspection system.

c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

30. Respondent's technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 12, 2013, Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

UNDERCOVER OPERATION #2

31. On or about July 26, 2013, a Bureau undercover operator (the "operator") took the Bureau's 2007 Jeep to Respondent's facility, Stressless Smog, and requested a smog inspection. The operator did not sign or receive a written estimate before Respondent performed work on the vehicle. Respondent allegedly performed the smog inspection. The operator paid $60 and received a copy of the invoice and a Vehicle Inspection Report.

32. The Bureau obtained information from the vehicle information database showing that Respondent performed a smog inspection on the 2007 Jeep on July 26, 2013, between 10:08 and 10:17 hours, resulting in the issuance of electronic smog Certificate of Compliance No. [redacted]

33. The Bureau determined that the certificate of compliance was fraudulently issued because an aftermarket performance device, which had not been approved for emission controlled vehicles in the State of California, had been installed on the vehicle. That device precluded the vehicle from passing a lawful smog inspection. The device could be detected visually. The Bureau determined that Respondent had not removed the device for the smog inspection.

TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

34. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading. Specifically, Respondent certified under penalty of perjury that the Bureau's 2007 Jeep had passed a smog inspection and was in compliance with applicable laws and regulations. In fact, Respondent had not removed an unapproved aftermarket device that was installed on the vehicle, which precluded the vehicle from passing the inspection required by Health & Safety Code section 44012.

ELEVENTH CAUSE FOR DISCIPLINE

(Fraud)

35. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona fide inspection was performed of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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TWELFTH CAUSE FOR DISCIPLINE

(Failure to Provide a Written Estimate)

36. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9, subdivision (a), in a material respect. Specifically, Respondent failed to provide the operator with a written estimate before performing the smog inspection on the Bureau's 2007 Jeep, as set forth in paragraph 31, above.

THIRTEENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Code Violations)

37. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

a. **Section 44012, subdivision (a):** Respondent failed to ensure that the emission control tests were performed on the Bureau's 2007 Jeep in accordance with procedures prescribed by the department.

c. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the Bureau's 2007 Jeep without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health & Safety Code section 44012.

FOURTEENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Regulation Violations)

38. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate of compliance for the Bureau's 2007 Jeep even though the vehicle had not been inspected in accordance with section 3340.42.

b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were conducted on the Bureau's 2007 Jeep in accordance with the Bureau's specifications.

FIFTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

39. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona fide inspection was performed of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTEENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program – Code Violations)

40. Respondent's technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2013, regarding the Bureau's 2007 Jeep, Respondent violated sections of that Code as follows:

a. **Section 44012, subdivision (f)**: Respondent failed to perform on the vehicle a visual and/or functional check of the emission control devices in accordance with required procedures.

b. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on the vehicle in accordance with Code section 44012, in that Respondent did not remove an unapproved device that had been introduced that modified the vehicle's emission control system.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Regulation Violations)

41. Respondent's technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2013, regarding the Bureau's 2007 Jeep, Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

b. **Section 3341.41, subdivision (c)**: Respondent knowingly entered false information into the emission inspection system.

c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

42. Respondent's technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2013, Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 2007 Jeep without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

MATTERS IN AGGRAVATION

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

Ron J. Brymer

a. On or about August 4, 2006, the Bureau issued Citation No. M07-0035 against Respondent for violations of Health and Safety Code section 44032 (qualified technicians shall perform tests of emission control systems and devices in accordance with Health& Safety Code section 44012), and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035, and Regulation 3340.42). On August 2, 2006, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system. Respondent was directed to complete an 8 hour training course and to submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent completed the training on August 30, 2006.

b. On or about June 3, 2009, the Bureau issued Citation No. M09-1381 against Respondent for violations of Health and Safety Code section 44032 and Regulation 3340.30, subdivision (a). On May 13, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a non-functional exhaust gas recirculation system. Respondent was directed to complete an 8 hour training course and to submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent completed the training on July 28, 2009.

c. On or about July 30, 2009, the Bureau issued Citation No. M2010-0092 against Respondent for violations of Health and Safety Code section 44032 and Regulation 3340.30, subdivision (a). On July 21, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system. Respondent was directed to complete a 16 hour training course and to submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent completed the training on September 17, 2009.

d. On or about February 3, 2012, the Bureau issued Citation No. M2012-0810 against Respondent Brymer for violating Health and Safety Code section 44032. On January 30, 2012, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing thermostatic air cleaner. Respondent was directed to complete a 68 hour training course and to submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent completed the training on April 1, 2012.

Stressless Smog

e. On or about August 4, 2006, the Bureau issued Citation No. C07-0034 against Respondent for violation of Health & Safety Code section 44012, subdivision (f), (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department) and California Code of Regulations, title 16 ("Regulation"), section 3340.35, subdivision (c), (issuing a certificate of compliance to a vehicle that was improperly tested). August 2, 2006, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system. The Bureau assessed civil penalties totaling $500 against Respondent Smog for the violations, and Respondent paid the fine on August 24, 2006.

f. On or about June 3, 2009, the Bureau issued Citation No. C09-1380 against Respondent for violation of Health & Safety Code section 44012, subdivision (f), and Regulation 3340.35, subdivision (c). On May 13, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a non-functional exhaust gas recirculation system. The Bureau assessed civil penalties totaling $500 against Respondent for the violations, and Respondent paid the fine on June 26, 2009.

g. On or about July 30, 2009, the Bureau issued Citation No. C2010-0091 against Respondent for violation of Health & Safety Code section 44012, subdivision (f), and Regulation 3340.35, subdivision (c). On July 21, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system. The Bureau assessed civil penalties totaling $1,000 against Respondent for the violations, and Respondent paid the fine on September 25, 2009.

h. On or about February 3, 2012, the Bureau issued Citation No. C2012-0809 against Respondent for violation of Health & Safety Code section 44012, subdivision (f). On January 30, 2012, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing thermostatic air cleaner. The Bureau assessed civil penalties totaling $1,500 against Respondent for the violations, and Respondent paid the fine on April 11, 2012.

OTHER MATTERS

44. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or place on probation the registration for all places of business operated in this state by Respondent Ron J. Brymer, owner of Stressless Smog, upon a finding that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

45. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC 217052, issued to Ron J. Brymer, owner of Stressless Smog, is revoked or suspended, any additional license issued under this chapter in the name of Ron J. Brymer may be likewise revoked or suspended by the Director.

46. Under Health and Safety Code section 44072.8, if Respondent Brymer's Smog Check Inspector License No. EO 144259, and Smog Check Repair Technician License No. EI 144259 (formerly Advanced Emission Specialist Technician License No. EA 144259), are revoked or suspended, any additional license issued under this chapter in the name of Respondent Brymer may likewise be revoked or suspended.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 217052, issued to Ron J. Brymer, as owner of Stressless Smog;

2. Revoking or suspending any other automotive repair dealer registration issued to Ron J. Brymer;

3. Revoking or suspending Smog Check Station License Number RC 217052 issued to Ron J. Brymer, as owner of Stressless Smog;

4. Revoking or suspending the Smog Check Inspector License No. EO 144259 and Smog Check Repair Technician License No. EI 144259 (formerlyAdvanced Emission Specialist Technician License No. EA 144259), issued to Ron J. Brymer;

5. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Ron J. Brymer;

6. Ordering Ron J. Brymer 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,

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

DATED: January 24, 2014

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

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