

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

In the Matter of the Accusation Against:

MARVIN'S SMOG SHOP
MARTHA ANGULO, OWNER

1325 W. Inyo Avenue
Tulare, CA 93274

Mailing Address:

195 E. Washington
Tulare, CA 93274

Automotive Repair Dealer Reg. No. ARD 248564
Smog Check Station License No. RC 248564

and

MARCIEL ANDREW ANGULO

195 E. Washington
Tulare, CA 93274

Smog Check Inspector License No. EO 635923

Respondents.

Case No. 79/15-112

OAH No. 2015080258

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; except that the following typographical errors are corrected as follows:

1. Page 2, lines 14 and 18: The expiration date of "December 31, 2015" is corrected to "December 31, 2016".

The suspensions of Automotive Repair Dealer Registration No. ARD 248564, Smog Check Station License No. RC 248564, issued to Respondent Martha Angulo, and Smog Check Inspector License No. EO 635923, issued to Respondent Marciel Andrew Angulo, shall commence on the effective date of this decision.

This Decision shall become effective April 29, 2016.

DATED: April 1, 2016



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
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8

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

11
12 In the Matter of the Accusation Against:
13 **MARVIN'S SMOG SHOP**
MARTHA ANGULO, OWNER
14 **1325 W. Inyo Avenue**
Tulare, CA 93274
15 **Mailing Address:**
195 E. Washington
16 **Tulare, CA 93274**
17 **Automotive Repair Dealer Reg. No. ARD**
248564
18 **Smog Check Station License No. RC 248564**
19 **and**
20 **MARCIEL ANDREW ANGULO**
195 E. Washington
21 **Tulare, CA 93274**
22 **Smog Check Inspector License No. EO**
635923
23
24 Respondents.

Case No. 79/15-112

OAH No. 2015080258

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

3 PARTIES

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

7 2. Respondents Martha Angulo, owner of Marvin's Smog Shop, and Marciel Andrew
8 Angulo are representing themselves in this proceeding and have chosen not to exercise their right
9 to be represented by counsel.

10 3. On or about January 24, 2007, the Bureau of Automotive Repair issued Automotive
11 Repair Dealer Registration No. ARD 248564 to Martha Angulo, owner of Marvin's Smog Shop
12 ("Respondent Martha Angulo"). The Automotive Repair Dealer Registration was in full force
13 and effect at all times relevant to the charges brought in Accusation No. 79/15-112 and will
14 expire on December 31, 2015, unless renewed.

15 4. On or about March 20, 2007, the Bureau of Automotive Repair issued Smog Check
16 Station License No. RC 248564 to Respondent Martha Angulo. The Smog Check Station
17 License was in full force and effect at all times relevant to the charges brought in Accusation No.
18 79/15-112 and will expire on December 31, 2015, unless renewed.

19 5. On or about August 21, 2013, the Bureau of Automotive Repair issued Smog Check
20 Inspector License Number EO 635923 to Respondent Marciel Andrew Angulo. The Smog Check
21 Inspector License was in full force and effect at all times relevant to the charges brought in
22 Accusation No. 79/15-112 and will expire on March 31, 2017, unless renewed.

23 JURISDICTION

24 6. Accusation No. 79/15-112 was filed before the Director of Consumer Affairs
25 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
26 Respondents. The Accusation and all other statutorily required documents were properly served
27 on Respondents on June 11, 2015. Respondents timely filed their Notices of Defense contesting
28 the Accusation.

1 Automotive Repair, or other professional licensing agency is involved, and shall not be
2 admissible in any other criminal or civil proceeding.

3 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 248564
3 and Smog Check Station License No. RC 248564 issued to Respondent Martha Angulo, owner of
4 Marvin's Smog Shop, are revoked.

5 IT IS FURTHER HEREBY ORDERED that Smog Check Inspector License No. EO
6 635923 issued to Respondent Marciel Andrew Angulo is revoked.

7 However, the revocations are stayed and Respondents are placed on probation for three (3)
8 years on the following terms and conditions.

9 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 248564 and
10 Smog Check Station License No. RC 248564 issued to Respondent Martha Angulo, owner of
11 Marvin's Smog Shop, are suspended for thirty (30) consecutive days. Smog Check Inspector
12 License No. EO 635923 issued to Respondent Marciel Andrew Angulo, is suspended for thirty
13 (30) consecutive days.

14 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
15 automotive inspections, estimates and repairs.

16 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
17 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
18 conspicuously displayed in a location open to and frequented by customers and shall remain
19 posted during the entire period of actual suspension.

20 4. **Reporting.** Respondents or Respondents' authorized representative must report in
21 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
22 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
23 maintaining compliance with the terms and conditions of probation.

24 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
25 any financial interest which any partners, officers, or owners of the Respondents' facility may
26 have in any other business required to be registered pursuant to Section 9884.6 of the Business
27 and Professions Code.

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1 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
2 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

3 7. **Jurisdiction.** If an accusation is filed against either Respondent during the term of
4 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
5 until the final decision on the accusation, and the period of probation shall be extended until such
6 decision.

7 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
8 either Respondent has failed to comply with the terms and conditions of probation, the
9 Department may, after giving notice and opportunity to be heard, temporarily or permanently
10 invalidate the registration, or suspend or revoke the license, as appropriate.

11 9. **False and Misleading Advertising.** If the accusation involves false and misleading
12 advertising, during the period of probation, Respondents shall submit any proposed advertising
13 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

14 10. **Continuing Education Courses.** During the period of probation, Respondent
15 Marciel Andrew Angulo shall attend and successfully complete the Bureau certified Smog Check
16 Inspector 68-hour Level 1 - Engine and Emission Control Fundamentals Course. Said course
17 shall be completed and proof of completion submitted to the Bureau within 180 days of the
18 effective date of this decision and order. If proof of completion of the course is not furnished to
19 the Bureau within the 180-day period, Respondents' licenses shall be immediately suspended
20 until such proof is received.

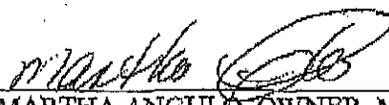
21 11. **Restrictions.** During the period of probation, Respondents shall not perform any
22 form of smog inspection, or emission system diagnosis or repair, until Respondents have
23 purchased, installed, and maintained the diagnostic and repair equipment prescribed by BAR
24 necessary to properly perform such work, and BAR has been given 10 days notice of the
25 availability of the equipment for inspection by a BAR representative.

26 12. **Cost Recovery.** Respondents shall be jointly and severally responsible to pay to the
27 Bureau costs associated with its investigation and enforcement pursuant to Business and
28 Professions Code section 125.3 in the amount of \$10,430.74. Payment to the Bureau of the full

1 amount of cost recovery shall be made in twenty-four (24) consecutive, equal monthly
2 installments, with the final payment received no later than twelve (12) months before probation
3 terminates. Failure to complete payment of cost recovery within this time frame shall constitute a
4 violation of probation which may subject Respondents' licenses and registration to outright
5 revocation; however, the Director or the Director's Bureau of Automotive Repair designee may
6 elect to continue probation until such time as reimbursement of the entire cost recovery amount
7 has been made to the Bureau.

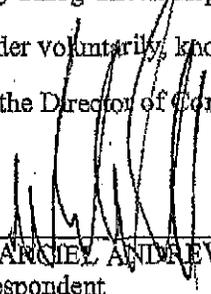
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9 ACCEPTANCE BY MARTHA ANGULO

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

15
16 DATED: 1-8-16 
17 MARTHA ANGULO, OWNER, MARVIN'S SMOG
18 SHOP
19 Respondent

20 ACCEPTANCE BY MARCIEL ANDREW ANGULO

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
22 stipulation and the effect it will have on my Smog Check Inspector License. I enter into this
23 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
24 to be bound by the Decision and Order of the Director of Consumer Affairs.

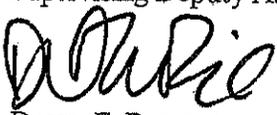
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26 DATED: 1-8-16 
27 MARCIEL ANDREW ANGULO
28 Respondent

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ENDORSEMENT

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

Dated: 1/11/2016

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

DAVID E. BRICE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-112

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7 *Attorneys for Complainant*

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

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15 Mailing Address:
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16 **Automotive Repair Dealer Reg. No. ARD 248564**
17 **Smog Check Station License No. RC 248564**

18 and

19 **MARCIEL ANDREW ANGULO**
20 195 E. Washington
Tulare, CA 93274

21 **Smog Check Inspector License No. EO 635923**

22 Respondents.

Case No. 79/15-112

23 **ACCUSATION**

(Smog Check)

24 Complainant alleges:

25 **PARTIES**

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

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1 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
2 of jurisdiction to proceed with disciplinary action.

3 **STATUTORY PROVISIONS**

4 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there
6 was a bona fide error, may deny, suspend, revoke, or place on probation the
7 registration of an automotive repair dealer for any of the following acts or omissions
8 related to the conduct of the business of the automotive repair dealer, which are done
9 by the automotive repair dealer or any automotive technician, employee, partner,
10 officer, or member of the automotive repair dealer.

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

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15 (3) Failing or refusing to give to a customer a copy of any document
16 requiring his or her signature, as soon as the customer signs the document.

17 (4) Any other conduct that constitutes fraud.

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

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22 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
23 place on probation the registration for all places of business operated in this state by
24 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
25 engaged in a course of repeated and willful violations of this chapter, or regulations
26 adopted pursuant to it.

27 10. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

28 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 . . .

11. Bus. & Prof. 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."

RECORDED UNDERCOVER OPERATION #1: 1993 GMC

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2 17. On October 15, 2014, an undercover operator with the Bureau (“operator”) took the
3 Bureau’s 1993 GMC to Respondent Martha Angulo’s facility and requested a smog inspection.
4 The EGR (exhaust gas recirculation) system on the Bureau-documented vehicle was not
5 functioning. Respondent’s employee, “Marciel”, had the operator sign a work order for the
6 inspection, but did not give her a copy or a written estimate. The operator observed Marciel
7 perform the smog inspection on the vehicle. After the inspection was completed, the operator
8 paid Marciel \$60 and received copies of an invoice and a vehicle inspection report (“VIR”). The
9 VIR showed that Respondent Marciel Angulo had performed the inspection. That same day, a
10 Bureau representative reviewed the recording of the undercover operation and found that Mr.
11 Angulo had not performed the required functional checks of the ignition timing and the EGR
12 system on the vehicle. Information retrieved from the Bureau’s vehicle information database
13 (“VID”) showed that the vehicle had passed the inspection, resulting in the issuance of electronic
14 smog Certificate of Compliance Number [REDACTED].

15 18. On November 3, 2014, the Bureau performed a smog inspection on the vehicle. The
16 vehicle failed the functional portion of the test due to the non-functional EGR system.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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19 19. Respondent Martha Angulo’s registration is subject to disciplinary action pursuant to
20 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
21 statements which she knew or in the exercise of reasonable care should have known to be untrue
22 or misleading, as follows: Respondent Martha Angulo’s smog check technician, Respondent
23 Marciel Angulo, certified under penalty of perjury on the VIR that he performed the smog
24 inspection on the Bureau’s 1993 GMC in accordance with all Bureau requirements and that the
25 vehicle had passed inspection and was in compliance with applicable laws and regulations. In
26 fact, Respondent Marciel Angulo failed to perform the required functional ignition timing test and
27 functional EGR system test on the vehicle. Further, the EGR system was not functioning and as
28 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

1 Marciel Angulo failed to perform the required functional ignition timing test and functional EGR
2 system test on the vehicle.

3 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
4 the Bureau's 1993 GMC without ensuring that the vehicle was properly tested and inspected to
5 determine if it was in compliance with Health & Saf. Code section 44012.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Regulations Pursuant**
8 **to the Motor Vehicle Inspection Program)**

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

12 a. **Section 3340.35, subdivision (c):** Respondent Martha Angulo issued an electronic
13 smog certificate of compliance for the Bureau's 1993 GMC even though the vehicle had not been
14 inspected in accordance with section 3340.42.

15 b. **Section 3340.41, subdivision (c):** Respondent Martha Angulo authorized or
16 permitted Respondent Marciel Angulo to enter false information into the Emissions Inspection
17 System ("EIS") by entering data indicating that the Bureau's 1993 GMC had passed the
18 functional ignition timing test and functional EGR system test. In fact, Respondent Marciel
19 Angulo failed to perform those functional tests on the vehicle. Further, the EGR system was not
20 functioning and as such, the vehicle would not pass the inspection required by Health & Saf.
21 Code section 44012.

22 c. **Section 3340.42:** Respondent Martha Angulo failed to ensure that the required smog
23 tests were conducted on the Bureau's 1993 GMC in accordance with the Bureau's specifications.

24 **SEVENTH CAUSE FOR DISCIPLINE**

25 **(Dishonesty, Fraud or Deceit)**

26 25. Respondent Martha Angulo's smog check station license is subject to disciplinary
27 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
28 committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an

1 electronic smog certificate of compliance for the Bureau's 1993 GMC without ensuring that a
2 bona fide inspection was performed of the emission control devices and systems on the vehicle,
3 thereby depriving the People of the State of California of the protection afforded by the Motor
4 Vehicle Inspection Program.

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program)**

7 26. Respondent Marciel Angulo's smog technician license is subject to disciplinary
8 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
9 to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to
10 perform the functional check of the emission control systems and devices on the Bureau's 1993
11 GMC in accordance with procedures prescribed by the department, as set forth in paragraphs 19
12 and 23 (a) above.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations Pursuant**
15 **to the Motor Vehicle Inspection Program)**

16 27. Respondent Marciel Angulo's smog technician license is subject to disciplinary
17 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed
18 to comply with provisions of California Code of Regulations, title 16, as follows:

19 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's
20 1993 GMC in accordance with Health & Saf. Code sections 44012 and 44035, and California
21 Code of Regulations, title 16, section 3340.42.

22 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
23 by entering data indicating that the Bureau's 1993 GMC had passed the functional ignition timing
24 test and functional EGR system test. In fact, Respondent failed to perform those functional tests
25 on the vehicle. Further, the EGR system was not functioning and as such, the vehicle would not
26 pass the inspection required by Health & Saf. Code section 44012.

27 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the
28 Bureau's 1993 GMC in accordance with the Bureau's specifications.

1 TENTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 28. Respondent Marciel Angulo's smog technician license is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
5 committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an
6 electronic smog certificate of compliance for the Bureau's 1993 GMC without performing a bona
7 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the
8 People of the State of California of the protection afforded by the Motor Vehicle Inspection
9 Program.

10 RECORDED UNDERCOVER OPERATION #2: 1992 TOYOTA

11 29. On October 28, 2014, the operator involved in the first undercover operation took the
12 Bureau's 1992 Toyota to Respondent Martha Angulo's facility and requested a smog inspection.
13 The ignition timing on the Bureau-documented vehicle was not adjusted to manufacturer's
14 specifications. Respondent's employee, Marciel, had the operator sign a work order for the
15 inspection, but did not give her a copy or a written estimate. The operator observed Marciel
16 perform the smog inspection on the vehicle. After the inspection was completed, the operator
17 paid Marciel \$55 and received copies of an invoice and a VIR. The VIR showed that Respondent
18 Marciel Angulo had performed the inspection. That same day, a Bureau representative reviewed
19 the recording of the undercover operation and found that Mr. Angulo had not performed the
20 required functional checks of the ignition timing and the EGR system on the vehicle. Information
21 retrieved from the Bureau's VID showed that the vehicle had passed the inspection, resulting in
22 the issuance of electronic smog Certificate of Compliance Number [REDACTED].

23 30. On November 5, 2014, the Bureau inspected the vehicle and found that the ignition
24 timing still was not adjusted to manufacturer's specifications. The Bureau performed a smog
25 inspection on the vehicle. The vehicle failed the functional portion of the test due to the faulty
26 ignition timing.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

3 34. Respondent Martha Angulo's registration is subject to disciplinary action pursuant to
4 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
5 section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent's
6 employee, Marciel, failed to provide the operator with a written estimate for the smog inspection
7 on the Bureau's 1992 Toyota.

8 **FIFTEENTH CAUSE FOR DISCIPLINE**

9 **(Violations of the Motor Vehicle Inspection Program)**

10 35. Respondent Martha Angulo's smog check station license is subject to disciplinary
11 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
12 to comply with provisions of that Code, as follows:

13 a. **Section 44012, subdivision (f)**: Respondent Martha Angulo failed to ensure that the
14 functional check of the emission control systems and devices was performed on the Bureau's
15 1992 Toyota in accordance with procedures prescribed by the department in that Respondent
16 Marciel Angulo failed to perform the required functional ignition timing test and functional EGR
17 system test on the vehicle.

18 b. **Section 44015**: Respondent issued an electronic smog certificate of compliance for
19 the Bureau's 1992 Toyota without ensuring that the vehicle was properly tested and inspected to
20 determine if it was in compliance with Health & Saf. Code section 44012.

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1 SIXTEENTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Regulations Pursuant
3 to the Motor Vehicle Inspection Program)

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

7 a. Section 3340.35, subdivision (c): Respondent Martha Angulo issued an electronic
8 smog certificate of compliance for the Bureau's 1992 Toyota even though the vehicle had not
9 been inspected in accordance with section 3340.42.

10 b. Section 3340.41, subdivision (c): Respondent Martha Angulo authorized or
11 permitted Respondent Marciel Angulo to enter false information into the EIS, as follows:

12 1. Respondent Marciel Angulo entered data indicating that the Bureau's 1992
13 Toyota had passed the functional ignition timing test. In fact, Respondent Marciel Angulo failed
14 to perform that functional test on the vehicle. Further, the ignition timing was not adjusted to
15 manufacturer's specifications and as such, the vehicle would not pass the inspection required by
16 Health & Saf. Code section 44012.

17 2. Respondent Marciel Angulo entered data indicating that the functional EGR
18 system test was not applicable. In fact, the functional EGR system test was required to be
19 performed on the vehicle.

20 c. Section 3340.42: Respondent Martha Angulo failed to ensure that the required smog
21 tests were conducted on the Bureau's 1992 Toyota in accordance with the Bureau's specifications.

22 SEVENTEENTH CAUSE FOR DISCIPLINE

23 (Dishonesty, Fraud or Deceit)

24 37. Respondent Martha Angulo's smog check station license is subject to disciplinary
25 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
26 committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an
27 electronic smog certificate of compliance for the Bureau's 1992 Toyota without ensuring that a
28 bona fide inspection was performed of the emission control devices and systems on the vehicle,

1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program)**

5 38. Respondent Marciel Angulo's smog technician license is subject to disciplinary
6 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
7 to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to
8 perform the functional check of the emission control systems and devices on the Bureau's 1992
9 Toyota in accordance with procedures prescribed by the department, as set forth in paragraphs 31
10 and 35 (a) above.

11 **NINETEENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant**
13 **to the Motor Vehicle Inspection Program)**

14 39. Respondent Marciel Angulo's smog technician license is subject to disciplinary
15 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed
16 to comply with provisions of California Code of Regulations, title 16, as follows:

17 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's
18 1992 Toyota in accordance with Health & Saf. Code sections 44012 and 44035, and California
19 Code of Regulations, title 16, section 3340.42.

20 b. **Section 3340.41, subdivision (c)**: Respondent entered false information into the EIS,
21 as follows:

22 1. Respondent entered data indicating that the Bureau's 1992 Toyota had passed
23 the functional ignition timing test when, in fact, Respondent failed to perform that functional test
24 on the vehicle. Further, the ignition timing was not adjusted to manufacturer's specifications and
25 as such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

26 2. Respondent entered data indicating that the functional EGR system test was not
27 applicable. In fact, the functional EGR system test was required to be performed on the vehicle.

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1 c. Section 3340.42: Respondent failed to conduct the required smog tests on the
2 Bureau's 1992 Toyota in accordance with the Bureau's specifications.

3 **TWENTIETH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud or Deceit)**

5 40. Respondent Marciel Angulo's smog technician license is subject to disciplinary
6 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
7 committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an
8 electronic smog certificate of compliance for the Bureau's 1992 Toyota without performing a
9 bona fide inspection of the emission control devices and systems on the vehicle, thereby
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle
11 Inspection Program.

12 **RECORDED UNDERCOVER OPERATION #3: 1993 CHEVROLET**

13 41. On November 4, 2014, the operator involved in the first and second undercover
14 operations took the Bureau's 1993 Chevrolet to Respondent Martha Angulo's facility and
15 requested a smog inspection. The EGR system on the Bureau-documented vehicle was not
16 functioning. Respondent's employee, "Marciel", asked the operator for the vehicle registration
17 notice and the keys to the vehicle. The operator handed Marciel the registration and keys. The
18 operator observed Marciel perform the smog inspection on the vehicle. After the inspection was
19 completed, Marciel had the operator sign a work order. The operator paid Marciel \$55 and
20 received copies of an invoice and a VIR. The VIR showed that Respondent Marciel Angulo had
21 performed the inspection. That same day, a Bureau representative reviewed the recording of the
22 undercover operation and found that Mr. Angulo had not performed the required functional
23 checks of the ignition timing and the EGR system on the vehicle. Information retrieved from the
24 Bureau's VID showed that the vehicle had passed the inspection, resulting in the issuance of
25 electronic smog Certificate of Compliance Number [REDACTED].

26 42. On November 18, 2014, the Bureau performed a smog inspection on the vehicle. The
27 vehicle failed the functional portion of the test due to the non-functional EGR system.

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1 c. **Section 3340.42:** Respondent Martha Angulo failed to ensure that the required smog
2 tests were conducted on the Bureau's 1993 Chevrolet in accordance with the Bureau's
3 specifications.

4 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

5 **(Dishonesty, Fraud or Deceit)**

6 48. Respondent Martha Angulo's smog check station license is subject to disciplinary
7 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
8 committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an
9 electronic smog certificate of compliance for the Bureau's 1993 Chevrolet without ensuring that a
10 bona fide inspection was performed of the emission control devices and systems on the vehicle,
11 thereby depriving the People of the State of California of the protection afforded by the Motor
12 Vehicle Inspection Program.

13 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

14 **(Violations of the Motor Vehicle Inspection Program)**

15 49. Respondent Marciel Angulo's smog technician license is subject to disciplinary
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
17 to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to
18 perform the functional check of the emission control systems and devices on the Bureau's 1993
19 Chevrolet in accordance with procedures prescribed by the department, as set forth in paragraphs
20 43 and 46 (a) above.

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1 MATTERS IN AGGRAVATION

2 52. To determine the degree of discipline, if any, to be imposed on Respondent Martha
3 Angulo, Complainant alleges as follows: On or about October 14, 2010, the Bureau issued
4 Citation No. C2011-0458 against Respondent for violations of Health & Saf. Code section 44012,
5 subdivision (f) (failure to determine that emission control devices and systems required by State
6 and Federal law are installed and functioning correctly in accordance with test procedures); and
7 California Code of Regulations, title 16, section 3340.35, subdivision (c) (issuing a certificate of
8 compliance to a vehicle that was improperly tested). On or about September 22, 2010,
9 Respondent issued a certificate of compliance to a Bureau undercover vehicle with the ignition
10 timing adjusted beyond specifications. The Bureau assessed civil penalties totaling \$1,500
11 against Respondent for the violations. Respondent paid the fine on December 6, 2010.

12 OTHER MATTERS

13 53. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
14 suspend, revoke, or place on probation the registration for all places of business operated in this
15 state by Respondent Martha Angulo, owner of Marvin's Smog Shop, upon a finding that
16 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
17 regulations pertaining to an automotive repair dealer.

18 54. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
19 Number RC 248564, issued to Respondent Martha Angulo, owner of Marvin's Smog Shop, is
20 revoked or suspended, any additional license issued under this chapter in the name of said
21 licensee may be likewise revoked or suspended by the Director.

22 55. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
23 Number EO 635923, issued to Respondent Marciel Andrew Angulo, is revoked or suspended, any
24 additional license issued under this chapter in the name of said licensee may be likewise revoked
25 or suspended by the Director.

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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 248564, issued to Martha Angulo, owner of Marvin's Smog Shop;
2. Revoking or suspending any other automotive repair dealer registration issued to Martha Angulo;
3. Revoking or suspending Smog Check Station License Number RC 248564, issued to Martha Angulo, owner of Marvin's Smog Shop;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Martha Angulo;
5. Revoking or suspending Smog Check Inspector License Number EO 635923, issued to Marciel Andrew Angulo;
6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Marciel Andrew Angulo;
7. Ordering Martha Angulo, owner of Marvin's Smog Shop, and Marciel Andrew Angulo to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
8. Taking such other and further action as deemed necessary and proper.

DATED: May 1, 2015


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

SA2015100574