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

12
13 In the Matter of the Accusation Against:

Case No. 79/20-9704

14 **HRIY VERTANOUS DBA BOBBY'S**
15 **AUTO CENTER**
1717 S. Brand Blvd, Unit A
16 **Glendale, CA 91204**

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
ARD 248690
18 **Smog Check Station License No. RC 248690,**

19 **and**

20 **HRIY VERTANOUS**
10119 Leona Ave
21 **Tujunga, CA 91042**

22 **Smog Check Inspector License No. EO**
150083
23 **Smog Check Repair Technician License No.**
EI 150083

24 Respondent.

PARTIES

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.

2. On or about January 1, 2006, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 248690 to Hriy Vertanous dba Bobby's Auto Center (Respondent Bobby's Auto Center). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

3. On or about February 13, 2007, the Bureau of Automotive Repair issued Smog Check Station License Number RC 248690 to Hriy Vertanous dba Bobby's Auto Center (Respondent Bobby's Auto Center). The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

4. On or about December 10, 2012, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 150083 to Hriy Vertanous (Respondent Vertanous). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2022, unless renewed.

5. On or about December 10, 2012, the Bureau of Automotive Repair issued Smog Check Repair Technician License Number EI 150083 to Hriy Vertanous (Respondent Vertanous). The Smog Check Repair Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2022, unless renewed.

JURISDICTION

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

7. Section 9884.7 of the Code provides that the Director may revoke an automotive repair dealer registration.

8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding

1 against an automotive repair dealer or to render a decision temporarily or permanently
2 invalidating (suspending or revoking) a registration.

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

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

10 **STATUTORY PROVISIONS**

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

15 12. Section 9884.7 of the Code states:

16 "(a) The director, where the automotive repair dealer cannot show there was a
17 bona fide error, may deny, suspend, revoke, or place on probation the registration of
18 an automotive repair dealer for any of the following acts or omissions related to the
19 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.

20 (1) Making or authorizing in any manner or by any means whatever any
21 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.

22 13. Section 44012 of the Health and Safety Code states:

23 "The test at the smog check stations shall be performed in accordance with
24 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:

25 "(a) Emission control systems required by state and federal law are reducing
26 excess emissions in accordance with the standards adopted pursuant to subdivisions
(a) and (c) of Section 44013.

27 "(b) Motor vehicles are preconditioned to ensure representative and stabilized
28 operation of the vehicle's emission control system.

1 “(c) For other than diesel-powered vehicles, the vehicle’s exhaust emissions of
2 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
3 mode or loaded mode are tested in accordance with procedures prescribed by the
4 department. In determining how loaded mode and evaporative emissions testing
5 shall be conducted, the department shall ensure that the emission reduction targets for
6 the enhanced program are met.

7 “(d) For other than diesel-powered vehicles, the vehicle’s fuel evaporative
8 system and crankcase ventilation system are tested to reduce any nonexhaust sources
9 of volatile organic compound emissions, in accordance with procedures prescribed by
10 the department.

11 “(e) For diesel-powered vehicles, if the department determines that the
12 inclusion of those vehicles is technologically and economically feasible, a visual
13 inspection is made of emission control devices and the vehicle’s exhaust emissions in
14 an idle mode or loaded mode are tested in accordance with procedures prescribed by
15 the department. The test may include testing of emissions of any or all of the
16 pollutants specified in subdivision (c) and, upon the adoption of applicable standards,
17 measurement of emissions of smoke or particulates, or both.

18 “(f) A visual or functional check is made of emission control devices specified
19 by the department, including the catalytic converter in those instances in which the
20 department determines it to be necessary to meet the findings of Section 44001. The
21 visual or functional check shall be performed in accordance with procedures
22 prescribed by the department.

23 “(g) A determination as to whether the motor vehicle complies with the
24 emission standards for that vehicle’s class and model-year as prescribed by the
25 department.

26 “(h) The test procedures may authorize smog check stations to refuse the
27 testing of a vehicle that would be unsafe to test, or that cannot physically be
28 inspected, as specified by the department by regulation. The refusal to test a vehicle
for those reasons shall not excuse or exempt the vehicle from compliance with all
applicable requirements of this chapter.”

14. Section 44015 of the Health and Safety Code states:

(a) A licensed smog check station shall not issue a certificate of compliance,
except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

15. 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.”

16. Section 44059 of the Health and Safety Code states:

“The willful making of any false statement or entry with regard to a material
matter in any oath, affidavit, certificate of compliance or noncompliance, or

1 application form which is required by this chapter or Chapter 20.3 (commencing with
2 Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
3 and is punishable as provided in the Penal Code.”

4 17. Section 44072.2 of the Health and Safety Code states:

5 “....

6 “(d) Commits any act involving dishonesty, fraud, or deceit whereby another is
7 injured.”

8 **REGULATORY PROVISIONS**

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

10 “...

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

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

15 “A smog check technician shall comply with the following requirements at all
16 times while licensed.

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

20 20. California Code of Regulations, title 16, section 3340.35, states:

21 “....

22 “(c) A licensed station shall issue a certificate of compliance or noncompliance
23 to the owner or operator of any vehicle that has been inspected in accordance with the
24 procedures specified in section 3340.42 of this article and has all the required
25 emission control equipment and devices installed and functioning correctly....”

26 21. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions
27 test methods and procedures which apply to all vehicles inspected in the State of California.

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

“(a) All Smog Check inspections shall be performed in accordance with
requirements and procedures prescribed in the following:

“(1) Smog Check Inspection Procedures Manual, dated August 2009, which is
hereby incorporated by reference. This manual shall be in effect until subparagraph
(2) is implemented.

“(2) Smog Check Manual, dated 2013, which is hereby incorporated by
reference. This manual shall become effective on or after January 1, 2013.”

1 **COST RECOVERY**

2 23. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 24. On or around June 16, 2020, the Bureau received a complaint against Respondent
10 alleging Respondent wrongfully performed a smog inspection and issued a certificate of
11 compliance to a 2016 Ford Fiesta ST purchased by Consumer I. C.

12 25. On or around April 3, 2020, Consumer I. C. purchased a 2016 Ford Fiesta ST from
13 the California Auto Mall. Prior to the sale to Consumer I. C., the California Auto Mall took the
14 2016 Ford Fiesta ST to Respondent for a smog inspection. .

15 26. Several months later, the 2016 Ford Fiesta ST developed a ticking noise. On or
16 around June 3, 2020, Consumer I. C. took his vehicle to Walnut Creek Ford where they found
17 several aftermarket non-Air Resources Board approved modifications. Walnut Creek Ford
18 informed Consumer I. C. that the repairs would not be covered under warranty as a result of the
19 modifications.

20 27. On or around July 8, 2020, a Bureau Representative inspected Consumer I. C.'s
21 vehicle and found aftermarket parts without a California Air Research Board Executive Order
22 number. These parts included an aftermarket Mishimoto intercooler, aftermarket Mishimoto air
23 intake manifold and air filter housing, an aftermarket PCV oil catch canister, an aftermarket
24 Boomba blow off valve, and an aftermarket turbo charger.

25 28. Records reflect that, on or around March 19, 2020, Respondent performed a smog
26 inspection and issued a certificate of compliance to a 2016 Ford Fiesta ST.

27 29. On or around July 22, 2020, a Bureau Representative visited Respondent's facility.
28 Respondent admitted to passing the 2016 Ford Fiesta ST knowing that it was modified, as a favor

1 for his good, repeat customer despite all the missing, disconnected, and tampered emission
2 component he observed on the vehicle.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Violations of Statutes - Respondent)**

5 30. Respondent's registration is subject to disciplinary action under Business and
6 Professions Code section 9884.7, subdivision (a)(1) and (4) in that on or about March 19, 2020,
7 Respondent failed to comply with the following statutes:

- 8 a. **Business and Professions Code section 9884.7, subdivision (a)(1):** Respondent
9 made false or misleading statements. Complainant incorporates by reference
10 paragraphs 24-29, above, as though fully stated herein.
- 11 b. **Business and Professions Code section 9884.7, subdivision (a)(4):** Respondent
12 committed conduct constituting fraud. Complainant incorporates by reference
13 paragraphs 24-29, above, as though fully stated herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Violations of Regulations – Respondent)**

16 31. Respondent's registration is subject to disciplinary action under Business and
17 Professions Code section 9884.7, subdivision (a) (6), in that on or about March 19, 2020,
18 Respondent failed to comply with provisions of California Code of Regulations, title 16, in the
19 following material respects:

- 20 a. **Section 3340.35:** Respondent issued a certificate of compliance to the 2016 Ford
21 Fiesta ST without complying with California Code of Regulations, title 16, section
22 3340.42, in conducting the smog check inspection of the 2016 Ford Fiesta ST.
- 23 b. **Section 3340.41:** Respondent failed to comply with Health and Safety Code section
24 44012 and Health and Safety Section 44015(b) when it failed to conduct a complete
25 smog check inspection of the 2016 Ford Fiesta ST and issued a certificate of
26 compliance.

27 Complainant incorporates Paragraphs 24-29, above, as though fully stated herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Motor Vehicle Inspection Program - Respondent)**

3 32. Respondent's station license is subject to disciplinary action pursuant to Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about March 19, 2020 regarding 2016
5 Ford Fiesta ST, Respondent failed to comply with the following sections of the Health and Safety
6 Code:

- 7 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
8 performed on the 2016 Ford Fiesta ST in accordance with procedures prescribed by
9 the Bureau.
- 10 b. **Section 44015:** Respondent issued an electronic certificate of compliance for the
11 2016 Ford Fiesta ST without ensuring that the 2016 Ford Fiesta ST was properly
12 tested and inspected to determine if it was in compliance with Health and Safety Code
13 section 44012.
- 14 c. **Section 44032:** Respondent failed to ensure that the 2016 Ford Fiesta ST was
15 properly tested and inspected to determine if it was in compliance with Health and
16 Safety Code section 44012.

17 Complainant incorporates Paragraphs 24-29, above, as though fully stated herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Commission of Fraud- Respondent)**

20 33. Respondent's station license is subject to disciplinary action pursuant to Health and
21 Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code
22 44072.10, subdivision (c), in that on or about March 19, 2020, regarding the 2016 Ford Fiesta
23 ST, Respondent fraudulently issued a certificate of compliance. Complainant incorporates
24 Paragraphs 24-29, above, as though fully stated herein.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Violations of the Motor Vehicle Inspection Program – Respondent Vertanous)**

27 34. Respondent Hriy Vertanous' smog check inspection and repair licenses are subject to
28 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on

1 or about March 19, 2020 regarding the 2016 Ford Fiesta ST, Respondent Vertanous failed to
2 comply with section 44012 of the Health and Safety Code in a material respect, as follows:
3 Respondent Vertanous failed to perform the emission control tests on the 2016 Ford Fiesta ST in
4 accordance with produces prescribed by the department. Complainant incorporates Paragraphs
5 24-29, above, as though fully stated herein

6 **SIXTH CAUSE FOR DISCIPLINE**

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

9 35. Respondent Vertanous' smog check inspection and repair licenses are subject to
10 disciplinary action pursuant to Health and Safety Code section 44032 and Health and Safety Code
11 section 44059, in that on or about March 19, 2020, regarding the 2016 Ford Fiesta ST,
12 Respondent Vertanous failed to comply with provisions of the California Code of Regulations,
13 title 16, as follows:

- 14 a. **Section 3340.24:** Respondent Vertanous fraudulently issued a certificate of
15 compliance to the 2016 Ford Fiesta ST without complying with California Code of
16 Regulations, title 16, section 3340.30, in conducting the smog check inspection of the
17 Oldsmobile.
- 18 b. **Section 3340.30:** Respondent Vertanous failed to comply with Health and Safety
19 Code section 44012 when he conducted the smog check inspection of the 2016 Ford
20 Fiesta ST.
- 21 c. **Sections 3340.42 and 3340.45:** Respondent Vertanous failed to comply with the
22 smog check inspection regulations and procedures adopted by the Bureau with
23 respect to the smog check inspection of the 2016 Ford Fiesta ST.

24 Complainant incorporates Paragraphs 24-29, above, as though fully stated herein.

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Commission of Fraud- Respondent Vertanous)**

27 36. Respondent Vertanous' smog check inspection and repair licenses are subject to
28 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in

1 conjunction with Health and Safety Code 44072.10, subdivision (c), in that on or about March 19,
2 2020, regarding the 2016 Ford Fiesta ST, Respondent Vertanous fraudulently issued a certificate
3 of compliance. Complainant incorporates Paragraphs 24-29, above, as though fully stated herein.

4 **PRAYER**

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

- 8 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
9 248690, issued to Hriy Vertanous dba Bobby's Auto Center;
- 10 2. Revoking or suspending Smog Check Station License Number RC 248690, issued to
11 Hriy Vertanous dba Bobby's Auto Center;
- 12 3. Revoking or suspending Smog Check Inspector License Number EO 150083, issued
13 to Hriy Vertanous;
- 14 4. Revoking or suspending Smog Check Repair Technician License Number EI 150083,
15 issued to Hriy Vertanous;
- 16 5. Revoking or suspending Smog Check Repair Technician License Number EI 150083,
17 issued to Hriy Vertanous;
- 18 6. Revoking or suspending any other Automotive Repair Dealer Registration issued to
19 Hriy Vertanous.
- 20 7. Revoking or suspending any additional license issued under the Motor Vehicle
21 Inspection Program in the name of HriyVertanous.
- 22 8. Ordering Hriy Vertanous to pay the Bureau of Automotive Repair the reasonable
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions
24 Code section 125.3; and,

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

DATED: As of Digital Signature Date

Dorais,
Patrick@DCA

Digitally signed by
Dorais, Patrick@DCA
Date: 2022.01.11
12:23:05 -08'00'

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

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