

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
Deputy Attorney General
4 State Bar No. 176908
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. *79/16-102*

13 **GREEN BANK AUTO,**
14 **SUNG LAE CHO, OWNER**
1311 East Chestnut Avenue, #H
Santa Ana, CA 92701
15 1311 Park Western Drive, #9
San Pedro, CA 90732

A C C U S A T I O N
(S M O G C H E C K)

16 Automotive Repair Dealer Registration No.
17 ARD 262957
18 Smog Check Station License No. RC 262957,

19 and

20 **SUNG LAE CHO**
1311 West Park Western Drive, Unit 9
San Pedro, CA 90732

21 Smog Check Inspector License No. EO 630418
22 Smog Check Repair Technician License No. EI
23 630418 (formerly Advanced Emission
Specialist Technician License No. EA 630418)

24 Respondents.

25
26 Complainant alleges:

27 ///

28 ///

1 **PARTIES**

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

4 **Automotive Repair Dealer Registration No. ARD 262957**

5 2. On August 10, 2010, the Bureau of Automotive Repair (Bureau) issued
6 Automotive Repair Dealer Registration Number ARD 262957 (registration) to Sung Lae Cho,
7 owner of Evergreen Auto Care, now known as, Green Bank Auto (Respondent Green Bank). The
8 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
9 charges brought herein and will expire on August 31, 2016, unless renewed.

10 **Smog Check Station License No. RC 262957**

11 3. On May 8, 2013, the Bureau issued Smog Check Station License Number RC
12 262957 (station license) to Respondent Green Bank. The Smog Check Station License was in
13 full force and effect at all times relevant to the charges brought herein and will expire on August
14 31, 2016, unless renewed.

15 **Smog Check Inspector License No. EO 630418**

16 4. On August 25, 2008, the Bureau issued Advanced Emission Specialist Technician
17 License Number EA 630418 to Sung Lae Cho (Respondent Cho). The Advanced Emission
18 Specialist Technician License was due to expire on February 28, 2014, however, was cancelled
19 on November 20, 2013. On November 20, 2013, the Bureau renewed Advanced Emission
20 Specialist Technician License Number EA 630418 pursuant to Respondent Cho's election as
21 Smog Check Inspector License Number EO 630418 (inspector license). The Smog Check
22 Inspector License was in full force and effect at all times relevant to the charges brought herein
23 and will expire on February 28, 2018, unless renewed.¹

24 ///

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 are supplied. Written consent or authorization for an increase in the original
2 estimated price may be provided by electronic mail or facsimile transmission
3 from the customer. The bureau may specify in regulation the procedures to be
4 followed by an automotive repair dealer if an authorization or consent for an
5 increase in the original estimated price is provided by electronic mail or facsimile
6 transmission. If that consent is oral, the dealer shall make a notation on the work
7 order of the date, time, name of person authorizing the additional repairs and
8 telephone number called, if any, together with a specification of the additional
9 parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature
or initials to an acknowledgment of notice and consent, if there is an oral consent
of the customer to additional repairs,

10

11 16. Code section 9889.3 states, in pertinent part:

12 The director may suspend, revoke, or take other disciplinary action against
13 a license as provided in this article if the licensee or any partner, officer, or
14 director thereof:

(a) Violates any section of the Business and Professions Code that relates
to his or her licensed activities.

15 . . .

(c) Violates any of the regulations promulgated by the director pursuant to
this chapter.

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

(e) Has misrepresented a material fact in obtaining a license.

20 . . .

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

(i) Is convicted of a violation of Section 551 of the Penal Code.

23 17. H & S Code section 44012 states, in pertinent part:

24 The test at the smog check stations shall be performed in accordance with
25 procedures prescribed by the department and may require loaded mode
26 dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a
27 vehicle's onboard diagnostic system, or other appropriate test procedures as
28 determined by the department in consultation with the state board. The
department shall implement testing using onboard diagnostic systems, in lieu of
loaded mode dynamometer or two-speed idle testing, on model year 2000 and

///

1 newer vehicles only, beginning no earlier than January 1, 2013. However, the
2 department, in consultation with the state board, may prescribe alternative test
3 procedures that include loaded mode dynamometer or two-speed idle testing for
4 vehicles with onboard diagnostic systems that the department and the state board
determine exhibit operational problems. The department shall ensure, as
appropriate to the test method, the following:

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

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

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

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

15 (e) For diesel-powered vehicles, a visual inspection is made of emission
16 control devices and the vehicle's exhaust emissions are tested in accordance with
17 procedures prescribed by the department, that may include, but are not limited to,
onboard diagnostic testing. The test may include testing of emissions of any or all
of the pollutants specified in subdivision (c) and, upon the adoption of applicable
standards, measurement of emissions of smoke or particulates, or both.

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

21 (g) A determination as to whether the motor vehicle complies with the
22 emission standards for that vehicle's class and model-year as prescribed by the
department.

23 (h) An analysis of pass and fail rates of vehicles subject to an onboard
24 diagnostic test and a tailpipe test to assess whether any vehicles passing their
onboard diagnostic test have, or would have, failed a tailpipe test, and whether
25 any vehicles failing their onboard diagnostic test have or would have passed a
tailpipe test.

26 (i) 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

///

1 vehicle for those reasons shall not excuse or exempt the vehicle from compliance
2 with all applicable requirements of this chapter.

3 18. H & S Code section 44013 states, in pertinent part:

4 (a) (1) The department, in cooperation with the state board, shall
5 prescribe maximum emission standards to be applied in inspecting motor vehicles
6 under this chapter.

7 (2) In prescribing the standards, the department shall undertake
8 studies and experiments which are necessary and feasible, evaluate available data,
9 and confer with automotive engineers.

10 (3) The standards shall be set at a level reasonably achievable for
11 each class and model of motor vehicle when operating in a reasonably sound
12 mechanical condition, allowing for the effects of installed motor vehicle pollution
13 control devices and the motor vehicle's age and total mileage.

14 (4) The standards shall be designed so that motor vehicles failing
15 the test specified in Section 44012 will be operated, as soon as possible, with a
16 substantial reduction in emissions, and shall be revised from time to time as
17 experience justifies.

18 ...

19 (c) Notwithstanding any other provision of this chapter, the maximum
20 emission standards and test procedures prescribed in subdivisions (a) and (b) for a
21 motor vehicle class and model-year shall not be more stringent than the emission
22 standards and test procedures under which that motor vehicle's class and model-
23 year was certified. Emission standards and test procedures prescribed by the
24 department shall ensure that not more than 5 percent of the vehicles or engines,
25 which would otherwise meet the requirements of this part, will fail the inspection
26 and maintenance test for that class of vehicle or engine.

27

28 19. H & S Code section 44015, subdivision (b) states:

If a vehicle meets the requirements of Section 44012, a smog check station
licensed to issue certificates shall issue a certificate of compliance or a certificate
of noncompliance.

20. H & S Code section 44032 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.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21. H & S 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 (H & S 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.

(e) Has misrepresented a material fact in obtaining a license.

....

22. H & S 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 .

....

REGULATORY PROVISIONS

23. CCR, section 3340.1 states in pertinent part:

A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.

....

///
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

24. CCR, section 3340.3 states in pertinent part:

A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.

....

25. CCR, section 3340.35 states in pertinent part:

...

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

(1) Customers shall be charged the same price for certificates as that paid by the licensed station; and

(2) Sales tax shall not be assessed on the price of certificates.

....

26. CCR, section 3340.41, subdivision (c), states:

No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.

27. CCR, section 3340.42 states:

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

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

(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

1 On and after March 31, 2010, exhaust emissions from a vehicle
2 subject to this inspection shall be measured and compared to the emissions
3 standards shown in the Vehicle Look-up Table (VLT) Row Specific Emissions
4 Standards (Cutpoints) Table, dated March 2010, which is hereby incorporated by
5 reference. If the emissions standards for a specific vehicle are not included in this
6 table then the exhaust emissions shall be compared to the emissions standards set
7 forth in TABLE I or TABLE II, as applicable. A vehicle passes the loaded-mode
8 test if all of its measured emissions are less than or equal to the applicable
9 emission standards specified in the applicable table.

10 (2) A two-speed idle mode test shall be the test method used to
11 inspect 1976 - 1999 model-year vehicles, except diesel-powered, registered in all
12 program areas of the state, except in those areas of the state where the enhanced
13 program has been implemented. The two-speed idle mode test shall measure
14 hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and
15 again at idle RPM, as contained in the bureau's specifications referenced in
16 subsection (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle
17 subject to this inspection shall be measured and compared to the emission
18 standards set forth in this section and as shown in TABLE III. A vehicle passes
19 the two-speed idle mode test if all of its measured emissions are less than or equal
20 to the applicable emissions standards specified in Table III.

21 (3) An OBD-focused test, shall be the test method used to inspect
22 gasoline-powered vehicles 2000 model-year and newer, and diesel-powered
23 vehicles 1998 model-year and newer. The OBD test failure criteria are specified
24 in section 3340.42.2.

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

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

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

(c) The bureau may require any combination of the inspection
methods in sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to
Health and Safety Code section 44014.7 as a means of identifying potential
operational problems with vehicle OBD systems.

(2) Vehicles identified by the bureau as being operationally or
physically incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational
problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross
polluter standards are as follows:

///

1 (1) A gross polluter means a vehicle with excess hydrocarbon,
2 carbon monoxide, or oxides of nitrogen emissions pursuant to the gross polluter
3 emissions standards included in the tables described in subsection (a), as
4 applicable.

5 (2) Vehicles with emission levels exceeding the emission standards
6 for gross polluters during an initial inspection will be considered gross polluters
7 and the provisions pertaining to gross polluting vehicles will apply, including, but
8 not limited to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

9 (3) A gross polluting vehicle shall not be passed or issued a
10 certificate of compliance until the vehicle's emissions are reduced to or below the
11 applicable emissions standards for the vehicle included in the tables described in
12 subsection (a), as applicable. However, the provisions described in section 44017
13 of the Health and Safety Code may apply.

14 (4) This subsection applies in all program areas statewide to
15 vehicles requiring inspection pursuant to sections 44005 and 44011 of the Health
16 and Safety Code.

17 28. CCR, section 3353 states, in pertinent part:

18 No work for compensation shall be commenced and no charges shall
19 accrue without specific authorization from the customer in accordance with the
20 following requirements:

21 (a) Estimate for Parts and Labor. Every dealer shall give to each customer
22 a written estimated price for parts and labor for a specific job.

23

24 29. CCR, section 3373 states:

25 No automotive repair dealer or individual in charge shall, in filling out an
26 estimate, invoice, or work order, or record required to be maintained by section
27 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
28 information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers,
prospective customers, or the public.

COST RECOVERY

30. Section 125.3 of the Code provides, in pertinent part, that the Bureau 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, with failure of the licentiate to comply subjecting the license to not

///

1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
2 may be included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Acts Involving Dishonesty, Fraud, or Deceit – Automotive Repair Dealer Registration)**

5 31. Respondent Green Bank's Automotive Repair Dealer Registration is subject to
6 discipline under Code section 9889.3, subdivision (d), for commission of acts involving
7 dishonesty, fraud, or deceit whereby another is injured. The circumstances are that on July 8,
8 2010, Respondent Cho, owner of Green Bank Auto, certified under penalty of perjury under the
9 laws of the State of California that the statements he made on his Application for Automotive
10 Repair Dealer Registration were true and correct. Respondent Cho falsely answered "No" in
11 response to the following question on the Bureau's form LIC STD 08 (Rev 07/07),

12 Has any person listed in number 7 had an auto repair dealer registration or
13 license denied, suspended, revoked or placed on probation?

14 32. Respondent Cho was dishonest in answering "No" because the Bureau had issued
15 Automotive Repair Dealer Registration Number ARD 191590 to him as owner of In Time Auto
16 Repair and on November 17, 1999, ARD 191590 was revoked for fraudulent smog check
17 activities. However, the revocation was stayed and Respondent's Automotive Repair Dealer
18 Registration was placed on probation for a period of three years with certain terms and
19 conditions. Respondent Cho's dishonesty deprived the People of the State of California of the
20 protection afforded by the Automotive Repair Dealer Registration Program.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Obtained Registration by Misrepresenting a Material Fact – Automotive Repair Dealer
23 Registration)**

24 33. Respondent Green Bank's Automotive Repair Dealer Registration is subject to
25 discipline under Code section 9889.3, subdivision (e), for unlawfully obtaining its Automotive
26 Repair Dealer Registration by misrepresenting a material fact on his registration application. The
27 circumstances are as follows:

28 ///

1 conditions. Respondent Cho's dishonesty deprived the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Obtained License by Misrepresenting a Material Fact – Smog Check Station License)**

5 37. Respondent Green Bank's Smog Check Station License is subject to discipline
6 under H & S Code section 44072.2, subdivision (e), for unlawfully obtaining his Smog Check
7 Station License by misrepresenting a material fact on his license application. The circumstances
8 are as follows:

9 38. Respondent Cho answered "No" in response to the question on prior discipline, as
10 detailed in paragraphs 31 and 32, above, and failed to disclose the existence of a smog check
11 station license previously issued to him that was revoked on November 17, 1999. Respondent
12 Cho's misrepresentation of these material facts on his station license application for Green Bank
13 Auto misled the Bureau into issuing Smog Check Station License Number RC 262957.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Acts Involving Dishonesty – Smog Check Inspector and Repair Technician Licenses)**

16 39. Respondent Cho's Smog Check Inspector License and Smog Check Repair
17 Technician License are subject to discipline under H & S Code section 44072.2, subdivision (d),
18 for commission of acts involving dishonesty, fraud, or deceit whereby another is injured. The
19 circumstances are that Respondent Cho certified under penalty of perjury under the laws of the
20 State of California on May 21, 2008, that the statements he made on his Renewal Application for
21 Smog Check Technician License (Advanced Emissions Specialist Technician License Number
22 EA 630418) were true and correct. However, Respondent Cho falsely answered "No" in
23 response to the question on the Bureau's license renewal form, "Have you ever been convicted
24 of, or pled nolo contendere to, any misdemeanor or felony offense of any state, or of the United
25 States?"

26 40. Respondent Cho was dishonest in answering "No" because on November 5, 1998,
27 in a criminal proceeding entitled *The People of the State of California v. Sung Lae Cho*, in Los
28 Angeles County Municipal Court, Central Arraignment Courthouse, case number

1 LAA8CR01343-01, Respondent was convicted on his plea of *nolo contendere* to violating Penal
2 Code (PC) section 502, subdivision (c)(1), knowingly accesses and without permission alters or
3 otherwise uses any data or computer in order to devise or execute any scheme or artifice to
4 defraud or to deceive, and H & S Code section 44012, subdivision (a)(1), failure to properly test
5 emission control systems required by state and federal law to reduce excess emissions, both
6 misdemeanors. Respondent Cho's dishonesty deprived the People of the State of California of
7 the protection afforded by the Motor Vehicle Inspection Program.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Obtained License by Misrepresenting a Material Fact – Smog Check Inspector and**
10 **Repair Technician Licenses)**

11 41. Respondent Cho's Smog Check Inspector License and Smog Check Repair
12 Technician License are subject to discipline under H & S Code section 44072.2, subdivision (e),
13 for unlawfully obtaining his Smog Technician License (Advanced Emissions Specialist
14 technician License number EA 630418) by misrepresenting a material fact on his May 21, 2008,
15 license renewal application that he had not been previously convicted of a misdemeanor, when,
16 in fact, he had been convicted, as alleged in paragraph 40, above, which is hereby incorporated
17 by reference.

18 **UNDERCOVER OPERATION: 1986 Chevrolet**

19 42. On June 3, 2015, the Bureau conducted an undercover operation at Respondent
20 Green Bank's smog check station, Green Bank Auto. The Bureau's vehicle, a 1986 Chevrolet,
21 was modified to fail a proper smog inspection due to the removal of the air injection system.

22 43. A Bureau undercover operator (operator) took the vehicle to Respondent Green
23 Bank's smog check station. The operator requested a smog inspection. Respondent Cho provided
24 an estimate. The operator signed and was provided a copy. Respondent Cho then inspected the
25 vehicle and showed the operator that the air injection system was gone. Respondent Cho then
26 offered, "It's not there. But if you give me \$200.00, I'll take care of it for you and pass the car.
27 But you can't tell anyone I did this for you. I'm going to treat you like family." The operator
28 agreed and paid \$200.00. After payment, the operator received a copy of the invoice and the

1 Vehicle Inspection Report. While reviewing the invoice, the operator noticed that Respondent
2 Cho failed to note the price of the smog check inspection.

3 44. On June 4, 2015, Bureau personnel re-inspected the vehicle after the smog test at
4 Respondent Green Bank's smog check station. The condition of the vehicle as modified before
5 testing at Respondent Green Bank's smog check station had not changed.

6 **SEVENTH CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statements – Automotive Repair Dealer Registration)**

8 45. Respondent Green Bank's Automotive Repair Dealer Registration is subject to
9 discipline under Code section 9884.7, subdivision (a)(1), in that on June 3, 2015, Respondent
10 Cho made statements which he knew or which by exercise of reasonable care he should have
11 known were untrue or misleading when he issued electronic Certificate of Compliance No.
12 YR724308 for the 1986 Chevrolet, certifying that the vehicle was in compliance with applicable
13 laws and regulations when, in fact, the vehicle had a missing air injection system.

14 **EIGHTH CAUSE FOR DISCIPLINE**

15 **(Fraud – Automotive Repair Dealer Registration)**

16 46. Respondent Green Bank's Automotive Repair Dealer Registration is subject to
17 discipline under Code section 9884.7, subdivision (a)(4), in that Respondent Cho committed an
18 act which constitutes fraud by issuing electronic Certificate of Compliance [REDACTED] for
19 the 1986 Chevrolet, without performing a bona fide inspection of the emission control devices
20 and systems on the vehicle, as alleged in paragraphs 42-44, above, and incorporated herein by
21 reference, thereby depriving the People of the State of California of the protection afforded by
22 the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

23 **NINTH CAUSE FOR DISCIPLINE**

24 **(Violations of the Motor Vehicle Inspection Program - Smog Check Station License)**

25 47. Respondent Green Bank's Smog Check Station License is subject to discipline
26 under H & S Code section 44072.2, subdivision (a), in that on June 3, 2015, regarding the 1986
27 Chevrolet, it violated the following sections of that Code:

28 ///

1 a. **Section 44012:** Respondent Cho failed to perform the emission control
2 tests on the vehicle in accordance with procedures prescribed by the Department, pursuant to
3 H & S Code section 44013.

4 b. **Section 44012, subdivision (f):** Respondent Cho failed to perform visual
5 or functional tests on the vehicle in accordance with procedures prescribed by the Department,
6 pursuant to H & S Code section 44013.

7 c. **Section 44015, subdivision (b):** Respondent Cho issued electronic
8 Certificate of Compliance No. YR724308 without properly testing and inspecting the vehicle to
9 determine if it was in compliance with section 44012 of that Code.

10 **TENTH CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations - Smog Check Station License)**

12 48. Respondent Green Bank's Smog Check Station License is subject to discipline
13 under H & S Code section 44072.2, subdivision (c), in that on June 3, 2015, regarding the 1986
14 Chevrolet, Respondent Cho violated the following sections of the California Code of
15 Regulations, title 16:

16 a. **Section 3340.35, subdivision (c):** Respondent Cho issued electronic
17 Certificate of Compliance No. YR724308 even though the vehicle had not been inspected in
18 accordance with H & S Code section 44012.

19 b. **Section 3340.42:** Respondent Cho failed to conduct the required smog
20 tests and inspections on the vehicle in accordance with the Bureau's specifications.

21 c. **Section 3373:** Respondent Cho made false or misleading records with
22 respect to the 1986 Chevrolet, by issuing Certificate of Compliance No. [REDACTED] without
23 performing bona fide inspections of the emission control devices and systems on the 1986
24 Chevrolet, thereby depriving the People of the State of California of the protections afforded
25 under the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

26 ///

27 ///

28 ///

1 d. **Section 44059**: Respondent Cho willfully made false entries for electronic
2 Certificate of Compliance No. YR724308 by certifying that the vehicle had been inspected as
3 required when, in fact, it had not, as alleged in paragraphs 42-44, above, and incorporated herein
4 by reference.

5 **THIRTEENTH CAUSE FOR DISCIPLINE**

6 **(Violations of Regulations - Smog Check Licenses)**

7 51. Respondent Cho's Smog Check Inspector License and Smog Check Repair
8 Technician License are subject to discipline under H & S Code section 44072.2, subdivision (c),
9 in that on June 3, 2015, regarding the 1986 Chevrolet, he violated the following sections of the
10 CCR:

11 a. **Section 3340.30, subdivision (a)**: Respondent Cho failed to inspect and
12 test that vehicle in accordance with H & S Code section 44012.

13 b. **Section 3340.41, subdivision (c)**: Respondent Cho permitted false
14 information to be entered into the Emission Inspection System (EIS) in that vehicle identification
15 information or emission control system identification data was entered for vehicles other than the
16 ones being tested.

17 c. **Section 3340.42**: Respondent Cho failed to conduct the required smog
18 tests and inspections on that vehicle in accordance with the Bureau's specifications, as alleged in
19 paragraphs 42-44, above, and incorporated herein by reference.

20 d. **Section 3340.45**: Respondent Cho failed to conduct the required smog
21 tests and inspections on that vehicle in accordance with the Smog Check Inspection procedures
22 Manual.

23 **FOURTEENTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud or Deceit – Smog Check Licenses)**

25 52. Respondent Cho's Smog Check Inspector License and Smog Check Repair
26 Technician License are subject to discipline under H & S Code section 44072.2, subdivision (d),
27 in that on June 3, 2015, he committed acts involving dishonesty, fraud or deceit whereby another
28 was injured by issuing electronic Certificate of Compliance [REDACTED] for the 1986

1 Chevrolet without performing a bona fide inspection of the emission control devices and systems
2 on that vehicle, thereby depriving the People of the State of California of the protections afforded
3 under the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

4 **UNDERCOVER OPERATION: 2001 Honda**

5 53. On July 22, 2015, the Bureau conducted an undercover operation at Respondent
6 Green Bank's smog check station, Green Bank Auto. The Bureau's vehicle, a 2001 Honda, was
7 modified to fail a proper smog inspection due to the removal of the catalytic converter, as well as
8 modification of the secondary Heated Oxygen Sensor (HO2S).

9 54. A Bureau undercover operator took the vehicle to Respondent Green Bank's smog
10 check station. The operator requested a smog inspection from Respondent Cho, who performed
11 the inspection. After the inspection, Respondent Cho provided an estimate. The operator signed
12 the estimate and received a copy of the estimate, invoice, and vehicle inspection report. After
13 paying \$40.00, the operator left Respondent Green Bank's smog check station.

14 55. On August 19, 2015, Bureau personnel re-inspected the vehicle after the smog test
15 at Respondent Green Bank's smog check station. The condition of the vehicle as modified before
16 testing at Respondent Green Bank's smog check station had not changed. A BAR-OIS smog
17 check inspection was performed. The vehicle passed the OBD II functional portion of the
18 inspection. The Bureau representative entered "Tampered" in the inspection category for
19 "Catalyst" due to the missing catalytic converter. The Bureau representative also entered
20 "Tampered" in the inspection category for Computers, Sensors, Switches, and Wiring due to the
21 modified oxygen sensor.

22 **FIFTEENTH CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements – Automotive Repair Dealer Registration)**

24 56. Respondent Green Bank's Automotive Repair Dealer Registration is subject to
25 discipline under Code section 9884.7, subdivision (a)(1), in that on July 22, 2015, Respondent
26 Cho made statements which he knew or which by exercise of reasonable care he should have
27 known were untrue or misleading when he issued electronic Certificate of Compliance No.
28 [REDACTED] for the 2001 Honda, certifying that the vehicle was in compliance with applicable

1 laws and regulations when, in fact, the vehicle had a missing catalytic converter, as well as
2 modified secondary Heated Oxygen Sensor (HO2S).

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

4 **(Fraud – Automotive Repair Dealer Registration)**

5 57. Respondent Green Bank’s Automotive Repair Dealer Registration is subject to
6 discipline under Code section 9884.7, subdivision (a)(4), in that Respondent Cho committed an
7 act which constitutes fraud by issuing electronic Certificate of Compliance [REDACTED] for
8 the 2001 Honda, without performing a bona fide inspection of the emission control devices and
9 systems on the vehicle, as alleged in paragraphs 53-55, above, and incorporated herein by
10 reference, thereby depriving the People of the State of California of the protection afforded by
11 the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

12 **SEVENTEENTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Motor Vehicle Inspection Program - Smog Check Station License)**

14 58. Respondent Green Bank’s Smog Check Station License is subject to discipline
15 under H & S Code section 44072.2, subdivision (a), in that on July 22, 2015, regarding the 2001
16 Honda, Respondent Cho violated the following sections of that Code:

17 a. **Section 44012:** Respondent Cho failed to perform the emission control
18 tests on the vehicle in accordance with procedures prescribed by the Department, pursuant to H
19 & S Code section 44013, as alleged in paragraphs 53-55, above, and incorporated herein by
20 reference.

21 a. **Section 44012, subdivision (f):** Respondent Cho failed to perform visual
22 or functional tests on the vehicle in accordance with procedures prescribed by the Department,
23 pursuant to H & S Code section 44013, as alleged in paragraphs 53-55, above, and incorporated
24 herein by reference.

25 b. **Section 44015, subdivision (b):** Respondent Cho issued electronic
26 Certificate of Compliance No. PU050880C without properly testing and inspecting the vehicle to
27 determine if it was in compliance with section 44012 of that Code, as alleged in paragraphs 53-
28 55, above, and incorporated herein by reference.

1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations - Smog Check Station License)**

3 59. Respondent Green Bank's Smog Check Station License is subject to discipline
4 under H & S Code section 44072.2, subdivision (c), in that on July 22, 2015, regarding the 2001
5 Honda, Respondent Cho violated the following sections of the California Code of Regulations,
6 title 16:

7 a. **Section 3340.35, subdivision (c):** Respondent Cho issued electronic
8 Certificate of Compliance No. PU050880C even though the vehicle had not been inspected in
9 accordance with H & S Code section 44012.

10 b. **Section 3340.42:** Respondent Cho failed to conduct the required smog
11 tests and inspections on the vehicle in accordance with the Bureau's specifications, as alleged in
12 paragraphs 53-55, above, and incorporated herein by reference.

13 c. **Section 3373:** Respondent Cho made false or misleading records with
14 respect to the 2001 Honda, by issuing Certificate of Compliance [REDACTED] without
15 performing bona fide inspections of the emission control devices and systems on the 2001
16 Honda, thereby depriving the People of the State of California of the protections afforded under
17 the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

18 **NINETEENTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Motor Vehicle Inspection Program - Smog Check Licenses)**

20 60. Respondent Cho's Smog Check Inspector License and Smog Check Repair
21 Technician License are subject to discipline under H & S Code section 44072.2, subdivision (a),
22 in that on July 22, 2015, regarding the 2001 Honda, he violated the following sections of that
23 Code:

24 a. **Section 44012:** Respondent Cho failed to perform the emission control
25 tests on the vehicle in accordance with procedures prescribed by the Department, pursuant to
26 Health and Safety Code section 44013, as alleged in paragraphs 53-55, above, and incorporated
27 herein by reference.

28 ///

- 1 3. Revoking or suspending Smog Check Station License Number RC 262957, issued
- 2 to Sung Lae Cho, owner of Green Bank Auto;
- 3 4. Revoking or suspending any additional license issued under Chapter 5 of the
- 4 Health and Safety Code in the name of Sun Lae Cho;
- 5 5. Revoking or suspending Smog Check Inspector License Number EO 630418,
- 6 issued to Sung Lae Cho;
- 7 6. Revoking or suspending Smog Check Repair Technician License Number EI
- 8 630418, issued to Sung Lae Cho;
- 9 7. Ordering Sung Lae Cho to pay the Bureau of Automotive Repair the reasonable
- 10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
- 11 Code section 125.3; and
- 12 8. Taking such other and further action as deemed necessary and proper.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: April 29, 2016


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

SD2015803049
81254276.doc