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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. 79/15-104

14 **C & A SMOG AUTOMOTIVE**
4748 Mission Blvd. #B
15 Ontario, CA 91762
COLEMAN HANCOX – PARTNER
16 **SIHOL SITUMEANG – PARTNER**

ACCUSATION
SMOG CHECK

17 Automotive Repair Dealer Registration No.
18 ARD 272188
Smog Check Station License No.
19 RC 272188

20 and

21 **COLEMAN HANCOX**
521 N. Lark Ellen Ave.
22 Covina, CA 91722

23 Smog Check Inspector License No. EO 314085
24 Smog Check Repair Technician License
No. EI 314085 (formerly Advanced Emission
25 Specialist Technician License No. EA 314085)

26
27 Respondents.
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1 Complainant alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration**

6 2. On or about March 15, 2013, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 272188 (registration) to Coleman Hancox – Partner, and Sihol
8 Situmeang - Partner, doing business as C & A Smog Automotive (Respondent C & A Smog).
9 The registration was in full force and effect at all times relevant to the charges brought herein and
10 will expire March 31, 2015, unless renewed.

11 **Smog Check Station**

12 3. On or about April 5, 2013, the Bureau issued Smog Check Station License Number
13 RC 272188 (station license) to Coleman Hancox – Partner, and Sihol Situmeang - Partner, doing
14 business as C & A Smog Automotive (Respondent C & A Smog). The station license was in full
15 force and effect at all times relevant to the charges brought herein and will expire March 31,
16 2015, unless renewed.

17 **Smog Check Inspector License and Smog Check Repair Technician License**

18 4. In or around 1998, the Bureau issued Advanced Emission Specialist Technician
19 License Number EA 314085 to Coleman Hancox (Respondent Hancox). Respondent Hancox’s
20 advanced emission specialist technician license was due to expire on August 31, 2013, however it
21 was cancelled on August 13, 2013. Pursuant to California Code of Regulations, title 16, section
22 3340.28, subdivision (e), the license was renewed, pursuant to Respondent Hancox’s election, as
23 Smog Check Inspector License Number EO 314085 and Smog Check Repair Technician License
24 Number EI 314085 (effective August 13, 2013) (technician licenses). Respondent Hancox’s
25 technician licenses will expire on August 31, 2015, unless renewed.¹

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 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 and/or Smog Check Repair Technician (EI) license.

1 **JURISDICTION**

2 This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau of Automotive Repair.

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

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

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

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

17 9. Section 44072.8 of the Health and Safety Code states:

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

21 **STATUTORY PROVISIONS**

22 10. Section 9884.7 of the Code states, in pertinent part:

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

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

4 (4) Any other conduct that constitutes fraud.

5 (6) Failure in any material respect to comply with the provisions of this chapter [the
6 Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations adopted pursuant to
7 it.

8 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more
9 than one place of business in this state, the director pursuant to subdivision (a) shall only suspend,
10 revoke, or place on probation the registration of the specific place of business which has violated
11 any of the provisions of this chapter. This violation, or action by the director, shall not affect in
12 any manner the right of the automotive repair dealer to operate his or her other places of business.

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

17 11. Section 44072.2 of the Health and Safety Code states, in pertinent part:

18 The director may suspend, revoke, or take other disciplinary action against a license
19 as provided in this article if the licensee, or any partner, officer, or director thereof, does any of
20 the following:

21 (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and
22 Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the
23 licensed activities.

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

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

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1 12. Health and Safety Code section 44072.10 states, in pertinent part:

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

7 (1) Clean piping, as defined by the department.

8

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

11 13. California Code of Regulations, title 16, section 3340.28(e), states that "[u]pon
12 renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist
13 Technician license issued prior to the effective date of this regulation, the licensee may apply to
14 renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

15 **COST RECOVERY**

16 14. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FACTUAL BACKGROUND**

21 15. The Bureau conducted a review of the Vehicle Information Database ("VID") from
22 Respondent C & A Smog's facility. The VID showed abnormal OBDII² code failure patterns. On
23 December 16, 2013, a Bureau representative reviewed the VID information for the period
24 between October 1, 2013 and November 10, 2013. The investigation revealed that eleven (11)

25 ² The On Board Diagnostics (OBDII) functional test is an automated function of the
26 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an
27 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is
28 located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves
information from the vehicle's on-board computer about the status of the readiness indicators,
trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II
functional test, it will fail the overall inspection.

1 vehicles were fraudulently certified with pending or history Diagnostic Trouble Codes (“DTC’s”)
2 stored in the Power Train Control Module (“PCM”) memory not supported by the vehicles being
3 tested.

4 16. As to the details of the clean plugging³ activities herein, vehicles 1 through 10 set
5 forth in Table 1 below were all certified with trouble code P0115 stored in the PCM memory,
6 while the original equipment manufacturer (“OEM”) service information shows these vehicles do
7 not support the pending codes stored in the PCM memory. As to vehicle 11 set forth in Table 1
8 below, such was certified with trouble code P1781 stored in the PCM memory, while the original
9 equipment manufacturer (“OEM”) service information shows this vehicle does not support the
10 pending code stored in the PCM memory.

11 17. The Bureau representative further consulted the original equipment manufacturer
12 service information for vehicles 1 through 10 set forth in Table 1 below, and these vehicles and/or
13 industry standard references “Mitchell On-Demand” and “Alldata Information Systems”, and
14 confirmed that none of the clean plugged vehicles supported fault code P0115. The Bureau
15 representative also further consulted the original equipment manufacturer service information for
16 vehicle 11 set forth in Table 1 below, and this vehicle and/or industry standard references
17 “Mitchell On-Demand” and “Alldata Information Systems”, and confirmed that this clean
18 plugged vehicle does not support fault code P1781.

19 18. In addition, the access code of Smog Check Inspector Coleman Hancox was used for
20 all eleven (11) of these inspections. The vehicles receiving smog certificates were not tested
21 during the OBD II functional test and another vehicle(s) was used instead, which constitutes clean
22 plugging.

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26 ³ Clean plugging is the use of the OBD II readiness monitor status and stored fault code
27 (trouble code) status of a passing vehicle for the purposes of illegally issuing a smog certificate to
28 another vehicle that is not in compliance due to a failure to complete the minimum number of self
test, known as monitors, or due to the presence of a stored fault code that indicates an emission
control system or component failure.

19. The specific details of Respondents' clean plugging activities are set forth below.

Table 1

#	Test Date and Time	Vehicle Certified & License No.	Unsupported Code	Technician License	Certificate #
1	10/30/13 1633-1655	2002 Mercury Mountaineer No license plate	P0115	EO314085	XZ788802C
2	10/30/13 1700-1709	1999 BMW 3 Series No license plate	P0115	EO314085	XZ788803C
3	10/31/13 1702- 1710	2000 Ford Mustang No license plate	P0115	EO314085	XZ788808C
4	11/1/13 1057-1113	2003 Dodge Stratus 5YRN198	P0115	EO314085	XZ788810C
5	11/2/13 1156-1211	1998 Ford Ranger 8H15684	P0115	EO314085	XZ788815C
6	11/5/13 1409-1428	2003 Nissan Xterra 5ESM165	P0115	EO314085	XZ788819C
7	11/5/13 1536-1538	2002 Chevrolet Suburban 6TAD810	P0115	EO314085	XZ788820C
8	11/6/13 1006-1026	1998 Mercury Grand Marquis 3WHW464	P0115	EO314085	XZ788824C
9	11/6/13 1709-1721	2001 Chevrolet Tahoe 5PEM672	P0115	EO314085	XZ788826C
10	11/7/13 1023-1050	2003 Ford Escape 4ZNY102	P0115	EO314085	XZ788827C
11	11/8/13 1458-1511	2003 Jaguar S type 4ZEP135	P1781	EO314085	XZ788833C

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

20. Respondent C & A Smog's registration is subject to discipline pursuant to Code section 9884.7(a)(1), in that from October 30, 2013 through November 8, 2013, Respondent C & A Smog made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent C & A Smog certified that the vehicles set forth above in Table 1, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent C & A Smog conducted the inspections on those vehicles using the clean plugging method by substituting or using different vehicles during the OBD II functional tests in order to issue smog certificates of compliance, and did not test or inspect the vehicles as required by Health and Safety Code section 44012.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 21. Respondent C & A Smog's registration is subject to discipline pursuant to Code
4 section 9884.7(a)(4), in that from October 30, 2013 through November 8, 2013, Respondent
5 C & A Smog committed acts which constitute fraud by issuing electronic certificates of
6 compliance for the vehicles set forth above in Table 1, without performing bona fide inspections
7 of the emission control devices and systems on those vehicles, thereby depriving the People of the
8 State of California of the protection afforded by the Motor Vehicle Inspection Program.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with the Motor Vehicle Inspection Program)**

11 22. Respondent C & A Smog's station license is subject to discipline pursuant to Health
12 and Safety Code section 44072.2(a), in that from October 30, 2013 through November 8, 2013,
13 regarding the vehicles set forth above in Table 1, Respondent C & A Smog failed to comply with
14 the following sections of that Code:

15 a. Section 44012: Respondent C & A Smog failed to ensure that the emission control tests
16 were performed on the vehicles, in accordance with procedures prescribed by the department.

17 b. Section 44015: Respondent C & A Smog issued electronic certificates of compliance
18 for the vehicles, without ensuring that the vehicles were properly tested and inspected to
19 determine if they were in compliance with Health and Safety Code section 44012.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection
22 Program)**

23 23. Respondent C & A Smog's station license is subject to discipline pursuant to Health
24 and Safety Code section 44072.2(c), in that from October 30, 2013 through November 8, 2013,
25 regarding the vehicles set forth above in Table 1, Respondent C & A Smog failed to comply with
26 provisions of California Code of Regulations, title 16, as follows:

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1 a. Section 3340.35(c): Respondent C & A Smog issued electronic certificates of
2 compliance even though those vehicles had not been inspected in accordance with section
3 3340.42 of that Code.

4 b. Section 3340.42: Respondent C & A Smog failed to conduct the required smog tests
5 and inspections on those vehicles in accordance with the Bureau's specifications.

6 **FIFTH CAUSE FOR DISCIPLINE**

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

8 24. Respondent C & A Smog's station license is subject to discipline pursuant to Health
9 and Safety Code section 44072.2(d), in that from October 30, 2013 through November 8, 2013,
10 regarding the vehicles set forth above in Table 1, Respondent C & A Smog committed acts
11 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
12 certificates of compliance for those vehicles without performing bona fide inspections of the
13 emission control devices and systems on the vehicles, thereby depriving the People of the State of
14 California of the protection afforded by the Motor Vehicle Inspection Program.

15 **SIXTH CAUSE FOR DISCIPLINE**

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

17 25. Respondent Hancox's technician license(s) is subject to discipline pursuant to Health
18 and Safety Code section 44072.2(a), in that from October 30, 2013 through November 8, 2013,
19 regarding the vehicles set forth above in Table 1, he failed to comply with section 44012 of that
20 Code in a material respect, as follows: Respondent Hancox failed to perform the emission control
21 tests on those vehicles in accordance with procedures prescribed by the department.

22 **SEVENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection
24 Program)**

25 26. Respondent Hancox's technician license(s) is subject to discipline pursuant to Health
26 and Safety Code section 44072.2(c), in that from October 30, 2013 through November 8, 2013,
27 regarding the vehicles set forth above in Table 1, he failed to comply with provisions of
28 California Code of Regulations, title 16, as follows:

1 a. Section 3340.30(a): Respondent Hancox failed to inspect and test those vehicles in
2 accordance with Health and Safety Code sections 44012.

3 b. Section 3340.42: Respondent Hancox failed to conduct the required smog tests and
4 inspections on those vehicles in accordance with the Bureau's specifications.

5 **EIGHTH CAUSE FOR DISCIPLINE**

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

7 27. Respondent Hancox's technician license(s) is subject to discipline pursuant to Health
8 and Safety Code section 44072.2(d), in that from October 30, 2013 through November 8, 2013,
9 regarding the vehicles set forth above in Table 1, he committed acts involving dishonesty, fraud
10 or deceit whereby another was injured by issuing electronic certificates of compliance without
11 performing bona fide inspections of the emission control devices and systems on those vehicles,
12 thereby depriving the People of the State of California of the protection afforded by the Motor
13 Vehicle Inspection Program.

14 **PRIOR DISCIPLINE**

15 28. To determine the degree of discipline, if any, Complaint alleges the following:

16 **Coleman Hancox, Smog Check Inspector License No. EO 314085 and/or Smog Check**
17 **Repair Technician License No. EI 314085**

18 a. On or about March 26, 2010, the Bureau issued Citation No. M2010-1010 against
19 Respondent Hancox's smog check technician license for violations of Health and Safety Code
20 section 44032 (failure to perform tests and inspections in accordance with Health and Safety
21 Code section 44012), and California Code of Regulations, title 16, section 3340.30(a) (inspect,
22 test, and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035,
23 and California Code of Regulations, title 16, section 3340.42). Respondent Hancox was required
24 to attend an 8-hour training course. On or about May 13, 2010, Respondent Hancox completed
25 the required training course.

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1 **OTHER MATTERS**

2 29. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
3 or permanently or refuse to validate, the registrations for all places of business operated in this
4 state by Coleman Hancox – Partner, and Sihol Situmeang - Partner, doing business as C & A
5 Smog Automotive , upon a finding that they have, or are, engaged in a course of repeated and
6 willful violations of the laws and regulations pertaining to an automotive repair dealer.

7 30. Under Health and Safety Code section 44072.8, if Smog Check Station License
8 Number RC 272188, issued to Coleman Hancox – Partner, and Sihol Situmeang - Partner, doing
9 business as C & A Smog Automotive, is revoked or suspended, any additional license issued
10 under this chapter in the name of said licensee may be likewise revoked or suspended by the
11 director.

12 31. Under Health and Safety Code section 44072.8, if Smog Check Inspector License
13 Number EO 314085 and Smog Check Repair Technician License Number EI 314085 (formerly
14 Advanced Emission Specialist Technician License Number EA 314085) issued to Coleman
15 Hancox, are revoked or suspended, any additional license issued under this chapter in the name of
16 said licensee may be likewise revoked or suspended by the director.

17 **PRAYER**

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

20 1. Revoking, suspending, or placing on probation, Automotive Repair Dealer
21 Registration Number ARD 272188, issued to Coleman Hancox – Partner, and Sihol Situmeang -
22 Partner, doing business as C & A Smog Automotive;

23 2. Revoking, suspending, or placing on probation any other automotive repair dealer
24 registration issued to Coleman Hancox and/or Sihol Situmeang ;

25 3. Revoking or suspending Smog Check Station License Number RC 272188, issued to
26 Coleman Hancox – Partner, and Sihol Situmeang - Partner, doing business as C & A Smog
27 Automotive;

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1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Coleman Hancox – Partner, and Sihol Situmeang - Partner, doing
3 business as C & A Smog Automotive;

4 5. Revoking or suspending Smog Check Inspector License Number EO 314085 and
5 Smog Check Repair Technician License Number EI 314085 (formerly Advanced Emission
6 Specialist Technician License Number EA 314085) issued to Coleman Hancox;

7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
8 and Safety Code in the name of Coleman Hancox;

9 7. Ordering Coleman Hancox and Sihol Situmeang to pay the Bureau of Automotive
10 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 125.3; and,

12 8. Taking such other and further action as deemed necessary and proper.

13
14 DATED: April 7, 2015



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