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7

8 **BEFORE THE**  
9 **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. 79/21-1628

14 **AAAA, INC., DBA AAAA AUTO REPAIR,**  
15 **NVART MESROPYAN**  
(President/Secretary/Treasurer)  
2357 West Ave I, Suite 103  
16 Lancaster, CA 93536

**ACCUSATION**

17 Automotive Repair Dealer Registration No.  
ARD 276908  
18 Smog Check, Station License No. RC 276908

19 **and**

20 **KIRAKOS M. TATOSSIAN**  
2036 Balment St.  
21 Lancaster, CA 93536

22 Smog Check Inspector License No. EO 149827  
Smog Check Repair Technician License  
23 No. EI 149827

24 Respondents.  
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1 **PARTIES**

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

4 2. On or about June 12, 2014, the Bureau of Automotive Repair issued Automotive  
5 Repair Dealer Registration Number ARD 276908 to AAAA, Inc., dba AAAA Auto Repair,  
6 President/Secretary/Treasurer Nvart Mesropyan (Respondent AAAA Auto Repair). The  
7 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the  
8 charges brought herein and will expire on June 30, 2021, unless renewed.

9 3. On or about July 18, 2016, the Bureau of Automotive Repair issued Smog Check,  
10 Station License Number RC 276908 to AAAA, Inc., dba AAAA Auto Repair,  
11 President/Secretary/Treasurer Nvart Mesropyan (Respondents). The Smog Check, Station  
12 License was in full force and effect at all times relevant to the charges brought herein and will  
13 expire on June 30, 2021, unless renewed.

14 4. On or about October 22, 2012, the Bureau of Automotive Repair issued Smog Check  
15 Inspector License Number EO 149827 to Kirakos M. Tatossian (Respondent Tatossian). The  
16 Smog Check Inspector License was in full force and effect at all times relevant to the charges  
17 brought herein and will expire on November 30, 2022, unless renewed.

18 5. On or about October 22, 2012, the Bureau of Automotive Repair issued Smog Check  
19 Repair Technician License Number EI 149827 to Kirakos M. Tatossian. The Smog Check Repair  
20 Technician License was in full force and effect at all times relevant to the charges brought herein  
21 and will expire on November 30, 2021, unless renewed.

22 **JURISDICTION**

23 6. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that  
24 the Director may revoke an automotive repair dealer registration.

25 7. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
26 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
27 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
28 invalidating (suspending or revoking) a registration.



1           12. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog  
2 check stations shall be performed in accordance with procedures prescribed by the department.

3           13. Health and Safety Code section 44015, subdivision (b), provides that a certificate of  
4 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section  
5 40012.

6           14. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

13                   (b) Is convicted of any crime substantially related to the qualifications,  
14 functions, or duties of the licenseholder in question.

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

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

19           15. Health and Safety Code section 44072.10 states, in pertinent part:

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

24                   . . .

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

27           16. Health and Safety Code section 44072.8 states that when a license has been revoked  
28 or suspended following a hearing under this article, any additional license issued under this  
chapter in the name of the licensee may be likewise revoked or suspended by the Director.

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**REGULATIONS**

17. California Code of Regulations, title 16, section 3340.15, subdivision (h), prohibits a licensed smog check station from subletting inspections or repairs required as part of the Smog Check Program.

18. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.

19. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times:

[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42 of this article.

20. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a licensed smog check 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.

21. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that:

[n]o 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.

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

23. California Code of Regulations, title 16, section 3395.2, states that:

A crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a registrant if to a substantial degree it shows that the registrant is presently or potentially unfit to perform the functions authorized by the registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, any violation of the provisions

of Article 3 of Chapter 20.3 of Division 3 of the Business and Professions Code.

**COST RECOVERY**

24. Business and Professions Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**VID DATA REVIEW**

25. On March 9, 2015, the Bureau implemented a policy change requiring the use of an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in addition to communication protocol (the language used to communicate) and Parameter ID (PID) differences with vehicles that have been certified correctly that are the same make and model vehicles.

26. On or about February 4, 2021, a Bureau representative initiated an investigation in which he reviewed OIS test data for AAAA Auto Repair. The investigation revealed that the data related to certain vehicles certified by AAAA Auto Repair contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the subject vehicles. The Bureau representative compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from five certified vehicles contained two or more of the following unmistakable discrepancies: (1) missing or incorrect eVINs; (2) incorrect vehicle communication protocols; and (3) incorrect PID counts. These documented discrepancies confirm that the vehicles receiving smog certificates from AAAA Auto Repair were fraudulently tested during the smog inspection using the clean plugging method. Clean plugging refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog

1 Certificates of Compliance to vehicles that are not in smog compliance or were not present for  
 2 testing.

3 27. The following table illustrates the documented clean plugging activities of  
 4 Respondents from March 23, 2020 through December 9, 2020:

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	3/23/20	2005 Chrysler PT Cruiser Touring VIN: 3C4FY58B55T614784	RG541142C	Respondent Kirakos M. Tatossian  (EO 149827)	Comm. Protocol: ICAN11bt5 (Expected: JVPW)  PID Count: 32 8 (Expected: 18, or 18 3)
2.	4/24/20	2001 Mercedes-Benz ML 320 VIN: 4JGAB54EX1A276548	RI196868C	Respondent Kirakos M. Tatossian  (EO 149827)	Comm. Protocol: I914 (Expected: KWPF)  PID Count: 21 (Expected: 22 or 24)
3.	7/20/20	2008 Nissan Frontier Crew Cab LE VIN: 1N6AD09U98C400936	RM697059C	Respondent Kirakos M. Tatossian  (EO 149827)	Comm. Protocol: I914 (Expected: ICAN11bt5)  PID Count: 22 (Expected: 43)
4.	9/23/20	2007 Nissan Altima 2.5 VIN: 1N4AL21E17N403005	RQ598507C	Respondent Kirakos M. Tatossian  (EO 149827)	Comm. Protocol: ICAN11bt5 (Expected: I914)  PID Count: 39 (Expected: 18 or 19)
5.	12/9/20	2007 Nissan Altima 3.5SE VIN: 1N4BL21E97N466163	RU365948C	Respondent Kirakos M. Tatossian  (EO 149827)	Comm. Protocol: ICAN11bt5 (Expected: I914)  PID Count: 39 (Expected: 22)

1           28. The data analysis conducted on AAAA Auto Repair (covering a period from March  
2 23, 2020 through December 9, 2020) shows that Respondents participated in a scheme to perform  
3 five (5) fraudulent Smog Check inspections resulting in the issuance of five (5) fraudulent  
4 electronic Smog Check Certificates of Compliance.

5                           **As to Automotive Repair Dealer Registration No. ARD 276908:**

6   **FIRST CAUSE FOR DISCIPLINE**

7   **(Untrue or Misleading Statements)**

8           29. Respondent AAAA Auto Repair's Automotive Repair Dealer Registration is subject  
9 to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision  
10 (a)(1), in that Respondent AAAA Auto Repair made or authorized statements which Respondent  
11 AAAA Auto Repair knew or in the exercise of reasonable care should have known to be untrue or  
12 misleading.

13           30. Respondent AAAA Auto Repair certified that the five vehicles identified in  
14 paragraph 27 above had passed inspection and were in compliance with applicable laws and  
15 regulations. In fact, Respondent AAAA Auto Repair conducted the inspections of the five  
16 vehicles identified in paragraph 27 above using the clean-plugging method, in that Respondent  
17 AAAA Auto Repair substituted or used a different vehicle(s) or another source during the OBD II  
18 functional tests in order to issue smog certificates of compliance for the vehicles. Respondent  
19 AAAA Auto Repair did not test or inspect any of the five vehicles as required by Health and  
20 Safety Code section 44012. Complainant refers to, and by this reference incorporates, the  
21 allegations set forth above in paragraphs 25 through 28, as though set forth fully herein.

22   **SECOND CAUSE FOR DISCIPLINE**

23   **(Fraud)**

24           31. Respondent AAAA Auto Repair's Automotive Repair Dealer Registration is subject  
25 to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision  
26 (a)(4), in that Respondent AAAA Auto Repair committed acts that constitute fraud by issuing  
27 electronic smog certificates of compliance for the five vehicles identified in paragraph 27 above  
28 without performing bona fide inspections of the emission control devices and systems on the

1 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
2 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the  
3 allegations set forth above in paragraphs 25 through 28, as though set forth fully herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Material Violation of Automotive Repair Act)**

6 32. Respondent AAAA Auto Repair's Automotive Repair Dealer Registration is subject  
7 to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision  
8 (a)(6), in that Respondent AAAA Auto Repair failed in a material respect to comply with the  
9 provisions of this chapter or regulations adopted pursuant to it when Respondent AAAA Auto  
10 Repair issued electronic smog certificates of compliance for the five vehicles identified in  
11 paragraph 27 above without performing bona fide inspections of the emission control devices and  
12 systems on those vehicles, thereby depriving the People of the State of California of the  
13 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this  
14 reference incorporates, the allegations set forth above in paragraphs 25 through 28, as though set  
15 forth fully herein.

16 **As to Smog Check, Station License No. RC 276908:**

17 **FIFTH CAUSE FOR DISCIPLINE**

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

19 33. Respondent AAAA Auto Repair's Smog Check, Station License is subject to  
20 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
21 Respondent AAAA Auto Repair failed to comply with the following sections of that Code:

22 a. **Section 44012:** Respondent AAAA Auto Repair failed to ensure that the emission  
23 control tests were performed on the five vehicles identified in paragraph 27 above in accordance  
24 with procedures prescribed by the department.

25 b. **Section 44015:** Respondent AAAA Auto Repair issued electronic smog certificates  
26 of compliance for the five vehicles identified in paragraph 27 above without ensuring that the  
27 vehicles were properly tested and inspected to determine if they were in compliance with Health  
28 and Safety Code section 44012.

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
2 paragraphs 25 through 28, as though set forth fully herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

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

5 34. Respondent AAAA Auto Repair's Smog Check, Station License is subject to  
6 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
7 Respondent AAAA Auto Repair failed to comply with provisions of California Code of  
8 Regulations, title 16, as follows:

9 a. **Section 3340.24, subdivision (c):** Respondent AAAA Auto Repair falsely or  
10 fraudulently issued electronic smog certificates of compliance for the five vehicles identified in  
11 paragraph 27 above.

12 b. **Section 3340.35, subdivision (c):** Respondent AAAA Auto Repair issued electronic  
13 smog certificates of compliance for the five vehicles identified in paragraph 27 above even  
14 though the vehicles had not been inspected in accordance with section 3340.42.

15 c. **Section 3340.41, subdivision (c):** Respondent AAAA Auto Repair knowingly  
16 entered false information into the emissions inspection system for the five vehicles identified in  
17 paragraph 27 above.

18 d. **Section 3340.42:** Respondent AAAA Auto Repair failed to ensure that the required  
19 smog tests were conducted on the five vehicles identified in paragraph 27 above in accordance  
20 with the Bureau's specifications.

21 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
22 paragraphs 25 through 28, as though set forth fully herein.

23 **SIXTH CAUSE FOR DISCIPLINE**

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

25 35. Respondent AAAA Auto Repair's Smog Check, Station License is subject to  
26 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
27 Respondent AAAA Auto Repair committed dishonest, fraudulent, or deceitful acts whereby  
28 another was injured by issuing electronic smog certificates of compliance for the five vehicles

1 identified in paragraph 27 above without performing bona fide inspections of the emission control  
2 devices and systems on the vehicles, thereby depriving the People of the State of California of the  
3 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this  
4 reference incorporates, the allegations set forth above in paragraphs 25 through 28, as though set  
5 forth fully herein.

6 **As to Smog Check Inspector License No. EO 149827 and Smog Check Repair Technician**

7 **License EI 149827:**

8 **SEVENTH CAUSE FOR DISCIPLINE**

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

10 36. Respondent Tatossian's Smog Check Inspector and Smog Check Repair Technician  
11 Licenses are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,  
12 subdivision (a), in that Respondent Tatossian failed to comply with section 44012 of that Code in  
13 a material respect, as follows: Respondent Tatossian failed to perform the emission control tests  
14 on the five vehicles identified in paragraph 27 above in accordance with procedures prescribed by  
15 the department. Complainant refers to, and by this reference incorporates, the allegations set forth  
16 above in paragraphs 25 through 28, as though set forth fully herein.

17 **EIGHTH CAUSE FOR DISCIPLINE**

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

19 37. Respondent Tatossian's Smog Check Inspector and Smog Check Repair Technician  
20 Licenses are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,  
21 subdivision (c), in that Respondent Tatossian failed to comply with provisions of California Code  
22 of Regulations, title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Tatossian falsely or fraudulently  
24 issued electronic smog certificates of compliance for the five vehicles identified in paragraph 27  
25 above.

26 b. **Section 3340.30, subdivision (a):** Respondent Tatossian failed to inspect and test the  
27 five vehicles identified in paragraph 27 above in accordance with Health and Safety Code  
28 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

1 c. **Section 3340.41, subdivision (c):** Respondent Tatossian knowingly entered false  
2 information into the emissions inspection system for the five vehicles identified in paragraph 27  
3 above.

4 d. **Section 3340.42:** Respondent Tatossian failed to conduct the required smog tests on  
5 the five vehicles identified in paragraph 27 above in accordance with the Bureau's specifications.

6 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
7 paragraphs 25 through 28, as though set forth fully herein.

8 **NINTH CAUSE FOR DISCIPLINE**

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

10 38. Respondent Tatossian's Smog Check Inspector and Smog Check Repair  
11 Technician Licenses are subject to disciplinary action pursuant to Health and Safety Code section  
12 44072.2, subdivision (d), in that Respondent Tatossian committed dishonest, fraudulent, or  
13 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance  
14 for the five vehicles identified in paragraph 27 above without performing bona fide inspections of  
15 the emission control devices and systems on the vehicles, thereby depriving the People of the  
16 State of California of the protection afforded by the Motor Vehicle Inspection Program.  
17 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
18 paragraphs 25 through 28, as though set forth fully herein.

19 **DISCIPLINARY CONSIDERATIONS**

20 39. To determine the degree of discipline, if any, to be imposed on Respondent AAAA  
21 Auto Repair, Complainant alleges that on or about February 5, 2019, in a prior action, the Bureau  
22 of Automotive Repair issued Citation Number C2019-752 and ordered Respondent AAAA Auto  
23 Repair to pay \$1,000 in penalties. That citation is now final. The citation was based on an  
24 incident on December 13, 2018, when Respondent AAAA Auto Repair issued a certificate of  
25 compliance to a Bureau undercover vehicle with a missing or modified positive crankcase  
26 ventilation system.

27 40. To determine the degree of discipline, if any, to be imposed on Respondent Kirakos  
28 M. Tatossian, Complainant alleges that on or about February 5, 2019, in a prior action, the Bureau

1 of Automotive Repair issued Citation Number M2019-753 and ordered Respondent Totassian to  
2 complete an 8-hour Bureau certified smog check citation training course. That citation is now  
3 final. The citation was based on an incident on December 13, 2018, when Respondent Tatossian  
4 issued a certificate of compliance to a Bureau undercover vehicle with a missing or modified  
5 positive crankcase ventilation system.

6 **OTHER MATTERS**

7 41. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the  
8 Director may suspend, revoke, or place on probation the registration for all places of business  
9 operated in this state by Respondent AAAA Auto Repair, upon a finding that Respondent AAAA  
10 Auto Repair has, or is, engaged in a course of repeated and willful violations of the laws and  
11 regulations pertaining to an automotive repair dealer.

12 42. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Station License  
13 No. RC 276908, issued to Respondent AAAA Auto Repair, is revoked or suspended following a  
14 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26  
15 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended  
16 by the Director.

17 43. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
18 License No. EO 149827 or Smog Check Repair Technician License No. EI 149827, issued to  
19 Respondent Tatossian, is revoked or suspended following a hearing under this article, any  
20 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code  
21 in the name of said licensee may be likewise revoked or suspended by the Director.

22 **PRAYER**

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

26 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
27 276908, issued to AAAA, Inc., dba AAAA Auto Repair;

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