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

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13 In the Matter of the Accusation Against:

Case No. 79/23-3321

14 **JERRY A. GUZZETTA,**
15 **DBA HALO HOT ROD**
16 **850 E. Jefferson Blvd.**
17 **Los Angeles, CA 90011**

ACCUSATION

18 **Automotive Repair Dealer Registration No.**
19 **ARD 280331**
20 **Smog Check Station License No. RC 280331**

Respondent.

21
22 **PARTIES**

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

25 2. On or about May 27, 2015, the Bureau of Automotive Repair issued Automotive
26 Repair Dealer Registration Number ARD 280331 to Jerry A. Guzzetta, dba Halo Hot Rod
27 (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all
28 times relevant to the charges brought herein and will expire on May 31, 2024, unless renewed.

STATUTORY PROVISIONS

10. Section 9884.7 of the Business and Professions Code states, in pertinent part:

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

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

(4) Any other conduct which constitutes fraud. . . .

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

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

11. Section 9889.22 of the Business and Professions 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 application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.”

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1 17. California Code of Regulations, title 16, section 3340.24, subdivision (c), states: “The
2 bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the
3 licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of
4 noncompliance.”

5 18. California Code of Regulations, title 16, section 3340.30, states: “A smog check
6 technician shall comply with the following requirements at all times while licensed.... (a) A
7 licensed technician shall inspect, test and repair vehicles in accordance with section 44012 of the
8 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
9 article. . . .”

10 19. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:
11 “(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or
12 operator of any vehicle that has been inspected in accordance with the procedures specified in
13 section 3340.42 of this article and has all the required emission control equipment and devices
14 installed and functioning correctly. . . .”

15 20. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that
16 “[n]o person shall enter into the emissions inspection system any vehicle identification
17 information or emission control system identification data for any vehicle other than the one
18 being tested. Nor shall any person knowingly enter into the emissions inspection system any
19 false information about the vehicle being tested.”

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

22 **COST RECOVERY**

23 22. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
24 the Bureau may request the administrative law judge to direct a licentiate found to have
25 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
26 costs of the investigation and enforcement of the case, with failure of the licentiate to comply
27 subjecting the license to not being renewed or reinstated. If a case settles, recovery of
28 investigation and enforcement costs may be included in a stipulated settlement.

1 **DEFINITION – CLEAN TANKING**

2 23. The Bureau has become aware of certain methods that some Smog Check stations and
3 Smog Check inspectors use to fraudulently issue smog certificates to vehicles that may not or will
4 not pass a Smog Check test on their own, or in some instances, are not even present during the
5 time the test is performed. “Clean tanking” is one such method. “Clean tanking” involves using
6 another vehicle’s properly functioning fuel evaporative storage system, or another source, during
7 the Low Pressure Fuel Evaporative Test (LPFET) using the LPFET equipment calibration tank
8 instead of connecting to the subject vehicle’s fuel inlet to determine if there is a leak in the
9 system.

10 24. LPFET is designed to test the functionality of the vehicle’s Evaporative Emissions
11 Control system by introducing inert Nitrogen gas into the vehicle’s fuel system, which includes
12 the fuel tank, until it reaches a predetermined pressure and then holds that pressure for a specified
13 period of time to confirm no leaks are present in the system. If the LPFET equipment fails a
14 proper calibration test, the LPFET tester is locked and the station is not able to perform the
15 LPFET test until the unit passes. “Clean tanking” subverts the LPFET.

16 **FACTUAL ALLEGATIONS**

17 25. At all relevant times alleged herein, Respondent employed Jossue Baltazar Ramirez
18 (Ramirez), a licensed smog check inspector. Respondent, however, is not a licensed smog check
19 inspector.

20 **Undercover Operation: 1991 Buick**

21 26. On December 19, 2022, an undercover operator with the Bureau took the Bureau’s
22 1991 Buick to Halo Hot Rod. The 1991 Buick was equipped with cameras to capture whether or
23 not the LPFET portion of the Smog Check inspection was performed and who performed the
24 inspection. The 1991 Buick was also equipped with a tamper seal affixed to the gas cap.

25 27. Upon arriving at Halo Hot Rod, the undercover operator requested a smog check
26 inspection.

27 28. Respondent, and not Ramirez, performed the inspection. In addition, during the
28 inspection, Respondent un-coupled the LPFET hose to a blue fuel tank adaptor, which was

1 already connected to a red colored gas tank sitting atop the dynamometer. Respondent never
2 accessed the 1991 Buick' gas tank, as required for a LPFET, and instead used "clean tanking"
3 during the inspection.

4 29. After the inspection, Respondent provided the undercover operator with a Smog
5 Check Vehicle Inspection Report. The Report stated that the 1991 Buick had passed the smog
6 check inspection, and falsely identified Ramirez as the smog check technician.

7 **Undercover Operation: 1992 Toyota**

8 30. On December 19, 2022, an undercover operator with the Bureau took the Bureau's
9 1992 Toyota to Halo Hot Rod. The 1992 Toyota was equipped with cameras to capture whether
10 or not the LPFET portion of the Smog Check inspection was performed and who performed the
11 inspection.

12 31. Upon arriving at Halo Hot Rod, the undercover operator requested a smog check
13 inspection. Respondent, and not Ramirez, performed the inspection. After the inspection,
14 Respondent provided the undercover operator with a Smog Check Vehicle Inspection Report.
15 The Report stated that the 1992 Toyota had passed the smog check inspection, and which falsely
16 identified Ramirez as the smog check technician.

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Unlicensed Smog Check)

19 32. Paragraphs 25 through 31 are incorporated herein by this reference.

20 33. Respondent is subject to disciplinary action under Health and Safety Code sections
21 44032 and 44072.2, in that Respondent performed smog checks, despite being unlicensed, as
22 alleged in more detail above.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (False Statement on Certificate of Compliance)

25 34. Paragraphs 25 through 31 are incorporated herein by this reference.

26 35. Respondent is subject to disciplinary action under Health and Safety Code section
27 44072.10, subdivision (c), in conjunction with California Code of Regulations, title 16, section
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1 3340.24, subdivision (c), in that Respondent fraudulently issued statements of compliance, as
2 alleged in more detail above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Violations of Smog Inspection Regulations)

5 36. Paragraphs 25 through 31 are incorporated herein by this reference.

6 37. Respondent is subject to disciplinary action under Health and Safety Code section
7 44072.10, subdivision (c)(4), in conjunction with California Code of Regulations, title 16, section
8 3340.24, in that Respondent violated smog inspection regulations by fraudulently issuing
9 statements of compliance, as alleged in more detail above.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Issuing Certificate of Compliance for Vehicle Not Properly Tested)

12 38. Paragraphs 25 through 31 are incorporated herein by this reference.

13 39. Respondent is subject to disciplinary action under Health and Safety Code section
14 44072.10, subdivision (c)(4), in conjunction with California Code of Regulations, title 16, section
15 3340.35, subdivision (c), in that Respondent issued a certificate of compliance for a vehicle not
16 properly tested, as alleged in more detail above.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 (Untrue or Misleading Statements)

19 40. Paragraphs 25 through 31 are incorporated herein by this reference.

20 41. Respondent is subject to disciplinary action under Business and Professions Code
21 section 9884.7, subdivision (a)(1), in that Respondent made untrue or misleading statements, as
22 alleged in more detail above.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 (Fraud)

25 42. Paragraphs 25 through 31 are incorporated herein by this reference.

26 43. Respondent is subject to disciplinary action under Business and Professions Code
27 section 9884.7, subdivision (a)(4), and under Health and Safety Code section 44072.2,
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1 subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in
2 that Respondent committed fraud, as alleged in more detail above.

3 **OTHER MATTERS**

4 44. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
5 suspend, revoke, or place on probation the registration for all places of business operated in this
6 state by Respondent, upon a finding that he has, or is, engaged in a course of repeated and willful
7 violations of the laws and regulations pertaining to an automotive repair dealer.

8 45. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test and Repair
9 Station License No. RC 280331, issued to Respondent, is revoked or suspended, any additional
10 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
11 said licensee may be likewise revoked or suspended by the Director.

12 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 280331, issued to Jerry A. Guzzetta, dba Halo Hot Rod;

18 2. Revoking or suspending Smog Check Station License Number RC 280331, issued to
19 Jerry A. Guzzetta, dba Halo Hot Rod;

20 3. Revoking or suspending any other automotive repair dealer registration issued to
21 Jerry A. Guzzetta;

22 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
23 Division 26 of the Health & Safety Code in the name of Jerry A. Guzzetta;

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5. Ordering Jerry A. Guzzetta to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: As of Digital Signature Date

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

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