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

12 In the Matter of the Accusation Against:

Case No. 77/24-12761

13 **DGDG 16, LLC.**
14 **DBA CAPITOL FORD**

ACCUSATION

15 919 Capitol Expressway Auto Mall
16 San Jose, CA 95136

17 Mailing Address

18 911 Capitol Expressway Auto Mall
19 San Jose, CA 95136

20 Automotive Repair Dealer Registration No. ARD 286860
Smog Check Station (RC) License No. RC286860

Respondent.

21 **PARTIES**

22
23 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
24 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

25 2. On or about May 9, 2017, the Bureau issued Automotive Repair Dealer Registration
26 Number ARD 286860 to DGDG 16, LLC., dba Capitol Ford (Respondent). The Automotive
27 Repair Dealer License was in full force and effect at all times relevant to the charges brought
28 herein and will expire on May 31, 2026, unless renewed.

3. On or about June 26, 2017, the Bureau issued Smog Check Station (RC) License Number RC286860 to Respondent. The Smog Check Station (RC) License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2026, unless renewed.

JURISDICTION

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

STATUTORY PROVISIONS

5. Section 9884.7 of the Code states:

(a) The director, if 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 that 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.

• • •

(e) For purposes of this section, “fraud” includes, but is not limited to, violations of this chapter involving misrepresentations and all of the following:

(1) Any act or omission that is included within the definition of either “actual fraud” or “constructive fraud,” as those terms are defined in Sections 1572 and 1573 of the Civil Code.

1 (2) A misrepresentation in any manner, whether intentionally false or due to
gross negligence, of a material fact.

2 (3) A promise or representation not made honestly and in good faith.

3 (4) An intentional failure to disclose a material fact.

4 (5) Any act in violation of Section 484 of the Penal Code.

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

8 7. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
9 expiration or suspension of a license by operation of law, or by order or decision of the Director
10 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
11 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
12 proceedings against the licensee, or to render a decision suspending or revoking the license.

13 8. Section 44072.8 of the Health and Safety Code states:

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

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

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

20 ...

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

22 ...

23 **REGULATORY PROVISIONS**

24 10. California Code of Regulations, title 16, section 3371, states:

25 No dealer shall publish, utter, or make or cause to be published, uttered, or
26 made any false or misleading statement or advertisement which is known to be false
or misleading, or which by the exercise of reasonable care should be known to be
27 false or misleading. Advertisements and advertising signs shall clearly show the
following:

28 (a) Firm Name and Address. The dealer's firm name and address as they

appear on the State registration certificate as an automotive repair dealer; and

(b) Telephone Number. If a telephone number appears in an advertisement or on an advertising sign, this number shall be the same number as that listed for the dealer's firm name and address in the telephone directory, or in the telephone company records if such number is assigned to the dealer subsequent to the publication of such telephone directory.

11. California Code of Regulations, title 16, section 3373, states:

No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or 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

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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 licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

13. From April to June 2024, a Bureau program representative documented a 2007 Ford (Ford) for use in an undercover run. The representative introduced an open to the Ford's #6 fuel injector (cylinder 6) electrical circuit. The introduced malfunction caused the Malfunction Indicator Lamp (MIL) to illuminate and set Diagnostic Trouble Codes (DTC) P0174-System Too Lean Bank 2, P0206-Injector circuit malfunction-cylinder 6, P0306-Cylinder 6 Misfire Detected, P0316-Misfire Detected on Startup (First 1000 revolutions), P2197-HO2S21 not switching correctly. In addition, the malfunction caused a rough idle condition. The only repairs the Ford needed were to the defective/open ground control circuit at # 6 Fuel Injector and to clear the DTC's.

14. On or about July 23, 2024, a Bureau program representative drove the Ford to Respondent's facility, Capitol Ford. The representative was approached by an individual who

1 introduced himself as Jesus, Service Advisor for Respondent (Jesus). Jesus asked what was
2 wrong with the Ford. The representative told Jesus the check engine light was on and the
3 vehicle's engine was shaking.

4 15. Jesus told the representative the diagnostic fee was \$295.88. The representative
5 authorized the diagnostic fee. Jesus had the representative sign an estimate and gave the
6 representative a copy.

7 16. On or about July 24, 2024, the representative spoke to Jesus by telephone. Jesus
8 informed the representative that Respondent was recommending three repairs for the Ford: a fuel
9 injector seal kit, a pigtail that would need to be rewired and soldered, and an Oxygen Sensor (O2
10 Sensor).

11 17. The representative asked Jesus if the Ford needed all three items. Jesus confirmed:
12 "All three things, correct." The representative asked Jesus how much the repairs would cost.
13 Jesus said: "The reason why this is happening is it could have been rodent damage. They chewed
14 through the pigtail and seals for the fuel injector which caused seepage, which caused the O2
15 sensors to be contaminated." Jesus said it would be \$2,293.06, before taxes. The representative
16 authorized the repairs.

17 18. On or about July 26, 2024, Jesus left the representative a voicemail stating the repairs
18 of the Ford were complete.

19 19. On August 2, 2024, the representative returned to Respondent's facility, Capitol Ford.
20 An employee of Respondent gave the representative an invoice to sign with the total amount of
21 \$2,387.42. The representative gave Respondent \$2,400.00 in cash and received \$12.58 in change.
22 The representative signed the invoice as directed and was provided a copy of the four-page
23 invoice #322587, and a copy of the Capitol Ford Automobile Status Report.

24 20. On August 12, 2024, the program representative who originally documented the Ford
25 conducted a reinspection of the Ford using Respondent's invoice #322587 as a reference.

26 21. Line G of invoice stated the cylinder #6 fuel injector pigtail connector/wire assembly
27 was replaced and properly repaired the defective/open ground control circuit. This was the only
28 repair needed to correct the illuminated MIL and engine misfire condition.

22. Lines F and H of invoice stated the six (6) fuel injectors and the two (2) O2 sensors on Bank 2 (driver side) were replaced. However, the six documented fuel injectors (with O-ring seals) and two documented Bank 2 O2 sensors were in good working condition and were not in need of replacement.

23. Respondent stated the fuel injectors were replaced due to “seepage” from the seals and the O2 sensors were replaced due to “being contaminated.” However, the Ford did not have any leaks present that would warrant a “FUEL INJECTOR SEAL KIT” replacement.

24. Tamper indicators on the fuel jumper tube, fuel filter inlet, and fuel filter outlet were still intact, indicating access at these service points to connect a fuel pressure gauge and perform the manufacturer’s fuel system pressure and leak down test had not occurred.

25. Respondent deviated from the proper vehicle manufacturer’s diagnostic test procedures. This deviation resulted in repairs that were not needed.

26. Respondent sold parts and labor that were not necessary or needed. Respondent charged the Bureau Program Representative \$1,722.08 to unnecessarily replace six fuel injectors and two O2 sensors.

FIRST CAUSE FOR DISCIPLINE

(False or Misleading Statements-ARD)

27. Respondent’s ARD is subject to disciplinary action under Code section 9884.7, subdivision (a)(1), in that Respondent made false or misleading statements that Respondent knew or should have known were false or misleading. Respondent stated certain repairs were needed when in fact they were not. Respondent stated that the Ford needed a fuel injector seal kit and an Oxygen Sensor (O2 Sensor). These statements were false or misleading. Respondent stated the fuel injectors were replaced due to “seepage” from the seals and the O2 sensors were replaced due to “being contaminated.” These statements were false or misleading. The circumstances are more fully described in the factual allegations above.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Fraud-ARD)

3 28. Respondent's ARD is subject to disciplinary action under Code section 9884.7,
4 subdivision (a)(1), for fraud. The circumstances are described in the factual allegations above.

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Violation of Law-ARD)

7 29. Respondent's ARD is subject to disciplinary action under Code section 9884.7,
8 subdivision (a)(1), in that Respondent violated the following Regulation adopted under the
9 Automotive Repair Act:

- 10 a. Respondent violate California Code of Regulations title 16, section 3371, by making
11 false or misleading statements as described in the factual allegations and the first cause
12 for discipline, above.
- 13 b. Respondent violate California Code of Regulations title 16, section 3373, by making
14 false or misleading statements on an invoice. The circumstances are described in in the
15 factual allegations and the first cause for discipline, above.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud or Deceit – Smog Licenses)**

18 30. Respondent has subjected its Smog Check Station License to discipline under
19 Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that Respondent
20 committed acts involving dishonesty, fraud or deceit, whereby another was injured. The
21 circumstances are described in the factual allegations, above.

22 **DISCIPLINARY CONSIDERATIONS**

23 31. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that on or about February 2, 2023, the Bureau held a Proactive Conference
25 with Respondent. The conference was held as a result of a consumer complaint. Respondent by
26 and through Service Manager, Francisco Ramirez, was advised that the conference was held in an
27 attempt to obtain future compliance with the Automotive Repair Act and the regulations adopted
28 under it. Respondent was advised to follow all laws and regulations of the Automotive Repair

1 Act. Respondent was warned that future violations of the Automotive Repair Act may result in
2 disciplinary action.

3 32. To determine the degree of discipline, if any, to be imposed on Respondent,
4 Complainant alleges that on or about April 18, 2024, the Bureau held an Office Conference with
5 Respondent by and through its representatives Stephanie Malone, Eldin Pasic, and Francisco
6 Ramirez. The conference was held as a result of fourteen (14) consumer complaints. Respondent
7 was advised that the conference was held in an attempt to obtain future compliance with the
8 Automotive Repair Act and the regulations adopted under it. Respondent was advised to follow
9 all laws and regulations of the Automotive Repair Act. Respondent was warned that future
10 violations of the Automotive Repair Act may result in disciplinary action.

11 **OTHER MATTERS**

12 33. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
13 or place on probation the registration for all places of business operated in this state by
14 Respondent, upon a finding that Respondent has, or is, engaged in a course of repeated and
15 willful violations of the laws and regulations pertaining to an automotive repair dealer.

16 34. Pursuant to Health & Safety Code section 44072.8, if Respondent's Smog Check
17 Station License is revoked or suspended, any additional license issued under Chapter 5 of Part 5
18 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
19 revoked or suspended by the director.

20 **PRAYER**

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

24 1. Revoking or suspending Automotive Repair Dealer License Number ARD 286860,
25 issued to DGDG 16, LLC., dba Capitol Ford;

26 2. Revoking or suspending Smog Check Station License Number RC 286860, issued to
27 DGDG 16, LLC., dba Capitol Ford;

1 3. Revoking or suspending any additional Automotive Repair Dealer Registration(s)
2 issued to DGDG 16, LLC.;

3 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
4 Division 26 of the Health and Safety Code to DGDG 16, LLC.;

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6 5. Ordering DGDG 16, LLC. to pay the Bureau of Automotive Repair the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

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

10
11 DATED: As of Digital Signature Date

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2025.05.08 11:53:34
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PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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