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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. 79/24-12262

13 **SACRAMENTO'S BEST SMOG, LLC**
14 **LAI SIN SAEPHAN, MEMBER**
6418 Martin Luther King Blvd
Sacramento, CA 95823

ACCUSATION

15 **Automotive Repair Dealer Registration**
16 **No. ARD 294576**
17 **Smog Check, Test, and Repair Station**
License No. RC 294576,

18 **and**

19 **LAI SIN SAEPHAN**
6418 Martin Luther King Jr Blvd
20 Sacramento, CA 95823

21 **Smog Check Inspector License No.**
EO 148384
22 **Smog Check Repair Technician License No.**
EI 148384

23
24 Respondents.

25
26 **PARTIES**

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

1 **SACRAMENTO’S BEST SMOG**

2 **Automotive Repair Dealer Registration**

3 2. On or about June 11, 2019, the Bureau issued Automotive Repair Dealer Registration
4 Number ARD 294576 (registration) to Sacramento's Best Smog (Respondent Sacramento) with
5 Lai Sin Saephan (Respondent Saephan) as a member. The registration was in full force and effect
6 at all times relevant to the charges brought herein and will expire on June 30, 2026, unless
7 renewed.

8 **Smog Check, Test and Repair, Station License**

9 3. On or about July 11, 2019, the Bureau issued Smog Check, Test and Repair, Station
10 License Number RC 294576 to Respondent Sacramento. The Smog Check, Test and Repair,
11 Station License was in full force and effect at all times relevant to the charges brought herein and
12 will expire on June 30, 2026, unless renewed.

13 **LAI SIN SAEPHAN**

14 **Smog Check Inspector License**

15 4. On or about June 7, 2019, the issued Smog Check Inspector License Number EO
16 148384 to Respondent Saephan. The Smog Check Inspector License was in full force and effect
17 at all times relevant to the charges brought herein and will expire on June 30, 2027, unless
18 renewed.

19 **Smog Check Repair Technician License**

20 5. On or about June 21, 2019, the Bureau issued Smog Check Repair Technician
21 License Number EI 148384 to Respondent Saephan. The Smog Check Repair Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on June 30, 2027, unless renewed.

24 **JURISDICTION**

25 6. This Accusation is brought before the Director of the Department of Consumer
26 Affairs (Director) for the Bureau under the authority of the following laws. All section references
27 are to the Business and Professions Code (Code) unless otherwise indicated.

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1 7. Code section 9884.7 provides that the Director may revoke an automotive repair
2 dealer registration.

3 8. Code section 9884.13 states, “The expiration of a valid registration shall not deprive
4 the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding
5 against an automotive repair dealer or to render a decision invalidating a registration temporarily
6 or permanently.”

7 9. Code section 9887.1 states:

8 The director shall have the authority to issue licenses for official lamp and
9 brake adjusting stations and shall license lamp and brake adjusters. The licenses shall
10 be issued in accordance with this chapter and regulations adopted by the director
11 pursuant thereto. The director shall establish by regulation the terms of adjusters'
12 licenses as are necessary for the practical administration of the provisions relating to
13 adjusters, but those terms shall not be for less than one nor more than four years.
Licenses may be renewed upon application and payment of the renewal fees if the
application for renewal is made within the 30-day period prior to the date of
expiration. Persons whose licenses have expired shall immediately cease the activity
requiring a license . . .

14 10. Code section 9889.1 provides, in pertinent part, that the Director may suspend or
15 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
16 Automotive Repair Act.

17 11. Code section 9889.7 states, “The expiration or suspension of a license by operation of
18 law or by order or decision of the director or a court of law, or the voluntary surrender of a license
19 by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of or
20 action or disciplinary proceedings against such licensee, or to render a decision suspending or
21 revoking such license.”

22 12. Code section 118, subdivision (b), states:

23 The suspension, expiration, or forfeiture by operation of law of a license issued
24 by a board in the department, or its suspension, forfeiture, or cancellation by order of
the board or by order of a court of law, or its surrender without the written consent of
25 the board, shall not, during any period in which it may be renewed, restored, reissued,
26 or reinstated, deprive the board of its authority to institute or continue a disciplinary
27 proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.

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13. Health and Safety (Health & Saf.) Code section 44002 states:

The department shall have the sole and exclusive authority within the state for developing and implementing the motor vehicle inspection program in accordance with this chapter.

For the purposes of administration and enforcement of this chapter, the department, and the director and officers and employees thereof, shall have all the powers and authority granted under Division 1 (commencing with Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and under Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of Regulations. Inspections and repairs performed pursuant to this chapter, in addition to meeting the specific requirements imposed by this chapter, shall also comply with all requirements imposed pursuant to Division 1 (commencing with Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of Regulations.

STATUTORY PROVISIONS

14. Code section 9884.7 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 that constitutes fraud.

...

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

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

(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

1 automotive repair dealer upon a finding that the automotive repair dealer has, or is,
2 engaged in a course of repeated and willful violations of this chapter, or regulations
3 adopted pursuant to it.

4 15. Code section 9884.9, subdivision (a), states, in pertinent part, that “the automotive
5 repair dealer shall give to the customer a written estimated price for labor and parts necessary for
6 a specific job.... No work shall be done and no charges shall accrue before authorization to
7 proceed is obtained from the customer.”

8 16. Code section 9888.5 states:

9 (a) The director shall develop inspection criteria and standards for specific
10 safety systems and components of the vehicle in order to promote the safe and
11 uniform installation, maintenance, and servicing of vehicle safety systems and
12 components.

13 (b) The director shall issue vehicle safety systems inspection licenses to stations
14 and technicians to conduct inspections of, and repairs to, safety systems of vehicles.
15 The director may electronically issue these licenses.

16 (c) By January 1, 2024, the director shall adopt the regulations, in accordance
17 with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
19 Government Code), including, but not limited to, all of the following:

20 (1) Inspection criteria and standards for specific safety systems and components
21 of the vehicle in order to promote the safe and uniform installation, maintenance, and
22 servicing of vehicle safety systems and components.

23 (2) The application fee and process for applicants, including any specialized
24 application process for those licensees licensed pursuant to Article 5 (commencing
25 with Section 9887.1) and Article 6 (commencing with Section 9888.1).

26 (3) The certificate of compliance fee and certification process for vehicles,
27 including any specialized certification process for those vehicles certified pursuant to
28 Article 8 (commencing with Section 9889.15). The director shall prescribe a form for
the certificate of compliance that contains, at a minimum, the date of issuance, the
make and registration number of the vehicle, and the official license of the station.

(d) The vehicle safety systems inspection license shall replace licenses issued
pursuant to Article 5 (commencing with Section 9887.1) and Article 6 (commencing
with Section 9888.1). Licenses issued in accordance with those articles shall remain
valid until six months after the effective date of regulations adopted pursuant to
subdivision (c). A licensee with a license issued pursuant to Article 5 (commencing
with Section 9887.1) or Article 6 (commencing with Section 9888.1) shall thereafter
be regulated under this article and shall apply for and be issued a vehicle safety
systems inspection license under this article.

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1 (e) The vehicle safety systems inspection certificate shall replace certificates
2 issued pursuant to Article 8 (commencing with Section 9889.15). Certificates issued
3 in accordance with that article shall remain valid until six months after the director
4 adopts regulations pursuant to subdivision (c).

5 17. Code section 9888.6 states, in pertinent part:

6 (a) A licensee shall issue to the owner or driver of a vehicle a certificate of
7 compliance on a form prescribed by the director if, after conducting an inspection of,
8 and any necessary repair to, the safety systems of the vehicle, the licensee determines
9 that the safety systems conform with the inspection criteria and standards adopted by
10 the director.

11 (b) (1) The director may require a licensee to electronically transmit to the
12 department a record of each certificate of compliance issued.

13 (2) The department may, for each transmission pursuant to this subdivision,
14 charge a licensee a transaction fee established by the department that shall be only
15 sufficient to cover the actual regulatory costs of administering those transmissions.

16 (c) The director may electronically transmit to the Department of Motor
17 Vehicles certificates of compliance issued by licensees.

18 (d) (1) The director shall evaluate the feasibility of augmenting existing
19 database systems to support the charging of fees with respect to, and the issuance and
20 tracking of, certificates of compliance.

21 (2) The director may enter into a contract for services necessary to maintain and
22 operate an electronic certificate system for the program.

23 18. Code section 9889.3 states, in pertinent part:

24 The director may suspend, revoke, or take other disciplinary action against a
25 license as provided in this article [Article 7 (commencing with section 9889.1) of the
26 Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

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

...

(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.

...

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

1 19. Code section 9889.9 states, “When any license has been revoked or suspended
2 following a hearing under the provisions of this article, any additional license issued under
3 Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended
4 by the director.”

5 20. Code section 9889.22 states:

6 “The willful making of any false statement or entry with regard to a material matter in
7 any oath, affidavit, certificate of compliance or noncompliance, or application form which
8 is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of
9 Division 26 of the Health and Safety Code constitutes perjury and is punishable as
provided in the Penal Code.”

10 21. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

15 ...

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

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

19 22. Health & Saf. Code section 44072.8 states, “When a license has been revoked or
20 suspended following a hearing under this article, any additional license issued under this chapter
21 in the name of the licensee may be likewise revoked or suspended by the director.”

22 **REGULATORY PROVISIONS**

23 23. CCR section 3353, states:

24 An estimate shall be provided to and authorized by the customer before any work
25 commences. The estimate shall meet the requirements of Business and Professions Code
section 9884.9 as well as the following:

26 (a) Estimate for Parts and Labor. Every automotive repair dealer shall give to
27 each customer an estimate containing the estimated price for parts and labor
28 for a specific job prior to obtaining authorization. Each part listed in the ///

estimate shall be new unless specifically identified as a used, rebuilt, or reconditioned part.

24. CCR 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(e) 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

25. 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 or violations of the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case, with failure of the licentiate 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.

UNDERCOVER OPERATION

26. On and between June 21, 2024, and July 11, 2024, Bureau representative T.W. documented a 2005 Pontiac with left front and right rear disc brake rotors that were below the manufacturer's minimum thickness specifications as well as a defective left brake light bulb.

27. On or about July 16, 2024, a Bureau undercover operator (operator) took the 2005 Pontiac to Respondent Sacramento's facility and requested brake, lamp, and smog check inspections. Respondent Sacramento did not provide the operator with a written estimate.

28. That same day, the operator returned to Respondent Sacramento's facility to retrieve the 2005 Pontiac. The operator paid and was provided with the estimate and invoice dated July 16, 2024, in the amount of \$170.00, Certificate of Compliance-Brake Adjustment number BA4252135, and Smog Check Certificate number UA477173C. The Certificate of Compliance-Brake Adjustment, Number BA4252135, was signed by Respondent Saephan as the adjuster.

29. On or about July 24, 2024, Bureau representative T.W. inspected the 2005 Pontiac using the final invoice and the Brake Certificate of Compliance that Respondent Sacramento provided to the operator. The Bureau representative determined the vehicle should not have

1 passed a proper brake inspection because the vehicle still had the undersized rotors, which
2 Respondent Saephan failed to identify.

3 30. The Undercover Operation revealed that Respondent Sacramento and Respondent
4 Saephan failed to properly perform a California brake inspection on the 2005 Pontiac, resulting in
5 the issuance of fraudulent Certificate of Compliance-Brake Adjustment BA4252135.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statements - ARD)**

8 31. Respondent Sacramento's Automotive Repair Dealer registration is subject to
9 disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that regarding the
10 Bureau's 2005 Pontiac, Respondent Sacramento made or authorized statements which it knew or
11 in the exercise of reasonable care should have known to be untrue or misleading. Specifically, on
12 or about July 16, 2024, Respondent Sacramento issued Certificate of Compliance-Brake
13 Adjustment, No. BA4252135 to the operator, certifying that the vehicle was in compliance with
14 Bureau Regulations or the requirements of the Vehicle Code. In fact, a brake certificate should
15 not have been issued for the vehicle because the right rear brake rotor and the left front brake
16 rotor were undersized.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Fraud - ARD)**

19 32. Respondent Sacramento's registration is subject to disciplinary action pursuant to
20 Code section 9884.7, subdivision (a)(4), in that on or about July 16, 2024, it committed acts that
21 constituted fraud. Specifically, Respondent Sacramento obtained payment from the operator for
22 performing the applicable inspections of the brake system on the Bureau's 2005 Pontiac as
23 specified by the Bureau and in accordance with the Vehicle Code when, in fact, it had not, as set
24 forth in paragraphs 26-30, above.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Gross Negligence - ARD)**

27 33. Respondent Sacramento's registration is subject to disciplinary action pursuant to
28 Code section 9884.7, subdivision (a)(5), in that Respondent Sacramento committed an act

1 constituting gross negligence in that Respondent Sacramento's technician, Respondent Saephan,
2 failed to properly perform the brake inspection on the Bureau's 2005 Pontiac, leaving the vehicle
3 in an unsafe condition, as set forth in paragraphs 26-30, above.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violations of Motor Vehicle Inspection Program - ARD)**

6 34. Respondent Sacramento's registration is subject to disciplinary action pursuant to
7 Code section 9884.7, subdivision (a)(6), in that regarding the Bureau's 2005 Pontiac, on or about
8 July 16, 2024, it failed to materially comply with provisions of the Automobile Repair Act, as
9 follows:

10 a. **Code section 9884.9, subdivision (a):** On or about July 16, 2024, Respondent
11 Sacramento failed to provide the operator with a written estimate prior to commencing work on
12 the vehicle.

13 b. **Code section 9889.16:** On or about July 16, 2024, Respondent Sacramento
14 issued Certificate of Compliance-Brake Adjustment, No. BA4252135, to the operator, certifying
15 that the vehicle was in compliance with Bureau regulations or the requirements of the Vehicle
16 Code. In fact, Respondent Sacramento's employee, Respondent Saephan, did not test or inspect
17 the vehicle in a manner that conforms with Bureau regulations or requirements of the Vehicle
18 Code.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations - ARD)**

21 35. Respondent Sacramento's registration is subject to disciplinary action pursuant to
22 Code section 9884.7(a)(6), in that on or about July 16, 2024, Respondent failed to comply with
23 provisions of California Code of Regulations, title 16, in the following material respects:

24 a. **Section 3305, subdivision (a):** Respondent Sacramento failed to perform
25 a brake inspection in accordance with the vehicle's manufacturer standards and/or current
26 standards, specifications, recommended procedures, and/or directives issued by the Bureau.

27 b. **Section 3321, subdivision (c)(2):** Respondent Sacramento issued
28 Certificate of Compliance-Brake Adjustment, No. BA4252135, certifying that the vehicle's brake

1 system had been properly inspected by Respondent Sacramento's employee, Respondent
2 Saephan, when in fact, it had not.

3 c. **Section 3353, subdivision (a):** Respondent Sacramento failed to provide
4 an estimate in accordance with the vehicle's manufacturer standards and/or current standards,
5 specifications, recommended procedures, and/or directives issued by the Bureau.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Dishonesty, Fraud, or Deceit - Smog Station)**

8 36. Respondent Sacramento's smog check, test and repair, station license is subject to
9 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that it
10 committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in
11 paragraphs 26 through 32, above.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud, or Deceit Causing Injury to Another - Smog Check**

14 **Inspector and Repair)**

15 37. Respondent Saephan's smog check inspector and smog check repair technician
16 licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
17 subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
18 injured, as set forth in paragraphs 26 through 32, above.

19 **OTHER MATTERS**

20 38. Pursuant to Code section 9884.7, subdivision (c), the Director may invalidate
21 temporarily or permanently or refuse to validate, the registrations for all places of business
22 operated in this state by Respondent Sacramento upon a finding that it has, or is, engaged in a
23 course of repeated and willful violations of the laws and regulations pertaining to an automotive
24 repair dealer.

25 39. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test and Repair,
26 Station License Number RC 294576, issued to Respondent Sacramento is revoked or suspended,
27 any additional licenses under Chapter 5 of part 5 of Division 26 of the Health & Safety Code in
28 the name of Respondent Sacramento may be likewise revoked or suspended by the Director.

40. Under Health & Saf. Code section 44072.8, if Smog Check Inspector License No. EO 148384 and/or Smog Check Repair Technician License No. EI 148384 issued to Respondent Saephan is revoked or suspended, then any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 294576, issued to Sacramento's Best Smog;

2. Revoking or suspending any other automotive repair dealer registration issued to Sacramento's Best Smog;

3. Revoking or suspending Smog Check Station License Number RC 294576, issued to Sacramento's Best Smog;

4. Revoking or suspending Smog Check Inspector License Number EO 148384, issued to Lai Sin Saepfan;

5. Revoking or suspending Smog Check Repair Technician License Number EI 148384,
issued to Lai Sin Saephan;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Lai Sin Saephon;

7. Ordering Sacramento's Best Smog and Lai Sin Saephan 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,

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

DATED: As of Digital Signature Date

Dorais, Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2025.07.02 13:57:24 -07'00'

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

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