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

12 In the Matter of the Accusation Against:

Case No. 79/09-30

13 **AIRCO SMOG**
16790 St. Charles Place, Suite B
14 Lake Elsinore, California 92530
STEVE A. HARTMAN, OWNER

ACCUSATION
[SMOG CHECK]

15 Automotive Repair Dealer Registration
16 No. ARD 226372
Smog Check Test Only Station License
17 No. TC 226372,

18 and

19 **EDWARD ASATRYAN**
2437 S. Buena Vista
20 Corona, California 92882

21 Advanced Emission Specialist Technician
License No. EA 144197

22 Respondents.
23

24 Sherry Mehl ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation solely in her official capacity as the
27 Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

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1 (b) Except as provided for in subdivision (c), if an automotive repair
2 dealer operates more than one place of business in this state, the director pursuant
3 to subdivision (a) shall only invalidate temporarily or permanently the registration
4 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.

5 (c) Notwithstanding subdivision (b), the director may invalidate
6 temporarily or permanently, the registration for all places of business operated in
7 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.

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

12 7. Code section 477 provides, in pertinent part, that "Board" includes
13 "bureau," "commission," "committee," "department," "division," "examining committee,"
14 "program," and "agency." "License" includes certificate, registration or other means to engage
15 in a business or profession regulated by the Code.

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

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

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

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

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

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

27 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part,
28 that the expiration or suspension of a license by operation of law, or by order or decision of the

1 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall
2 not deprive the Director of jurisdiction to proceed with disciplinary action.

3 11. Section 44072.8 of the Health and Safety Code states:

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

7 **COST RECOVERY**

8 12. Code section 125.3 provides, in pertinent part, that a Board may request
9 the administrative law judge to direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 **UNDERCOVER OPERATION - MARCH 20, 2008**

13 13. On or about March 20, 2008, a Bureau undercover operator using the alias
14 "Rita Jones" ("operator") drove a Bureau documented 1994 Nissan Sentra, California License
15 Plate No. 3JDT515, to Respondent Airco's facility and requested a smog inspection. The vehicle
16 could not pass a smog inspection because the vehicle's ignition timing was adjusted beyond the
17 manufacturer's specifications. The operator signed a work order; however, she was not provided
18 with a copy of the document prior to the smog inspection. Respondent Asatryan performed the
19 smog inspection and issued electronic Certificate of Compliance No. VP086493, certifying that
20 the vehicle was in compliance with applicable with all laws and regulations when, in fact, the
21 vehicle could not have passed the smog inspection because the vehicle's ignition timing was
22 adjusted beyond the manufacturer's specifications. Following the inspection, the operator paid
23 Respondent Airco \$55 and was provided with Invoice No. 016128 and a Vehicle Information
24 Report.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 14. Respondent Airco has subjected his registration to discipline under Code
28 section 9884.7, subdivision (a)(1), in that on or about March 20, 2008, he made statements

1 which he knew or which by exercise of reasonable care he should have known were untrue or
2 misleading by issuing electronic Certificate of Compliance No. VP086493 for the 1994 Nissan
3 Sentra, certifying that the vehicle was in compliance with applicable laws and regulations. In
4 fact, the vehicle could not have passed the functional portion of the smog inspection because the
5 vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Failure to Immediately Provide a Copy of a Signed Document)**

8 15. Respondent Airco has subjected his registration to discipline under Code
9 section 9884.7, subdivision (a)(3), in that on or about March 20, 2008, he failed to provide the
10 operator with a copy of the work order as soon as she signed the document.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 16. Respondent Airco has subjected his registration to discipline under Code
14 section 9884.7, subdivision (a)(4), in that on or about March 20, 2008, he committed acts which
15 constitute fraud by issuing electronic Certificate of Compliance No. VP086493 for the 1994
16 Nissan Sentra without performing a bona fide inspection of the emission control devices and
17 systems on the vehicle, thereby depriving the People of the State of California of the protection
18 afforded by the Motor Vehicle Inspection Program.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with the Automotive Repair Act)**

21 17. Respondent Airco has subjected his registration to discipline under Code
22 section 9884.7, subdivision (a)(6), in that on or about March 20, 2008, Respondent failed to
23 materially comply with Code section 9884.9, subdivision (a) by failing to provide the operator
24 with a written estimated price for parts and labor for a specific job for the smog inspection.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program)**

3 18. Respondent Airco has subjected his station license to discipline under
4 Health and Safety Code section 44072.2, subdivision (a), in that on or about March 20, 2008,
5 regarding the 1994 Nissan Sentra, he violated sections of that Code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent Airco failed to determine
7 that all emission control devices and systems required by law were installed and functioning
8 correctly in accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent Airco failed to perform
10 emission control tests on those vehicles in accordance with procedures prescribed by the
11 department.

12 c. **Section 44015, subdivision (b):** Respondent Airco issued electronic
13 Certificate of Compliance No. VP086493 for that vehicle without properly testing and inspecting
14 the vehicle to determine if it was in compliance with Code section 44012.

15 d. **Section 44059:** Respondent Airco willfully made false entries for
16 electronic Certificate of Compliance No. VP086493 for that vehicle, certifying that the vehicle
17 had been inspected as required when, in fact, it had not.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

20 19. Respondent Airco has subjected his station license to discipline under
21 Health and Safety Code section 44072.2, subdivision (c), in that on or about March 20, 2008,
22 regarding the 1994 Nissan Sentra, he violated sections of the California Code of Regulations,
23 title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Airco falsely or
25 fraudulently issued electronic Certificate of Compliance No. VP086493 for that vehicle without
26 performing a bona fide inspection of the emission control devices and systems on the vehicle as
27 required by Health and Safety Code section 44012.

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1 b. Section 3340.35, subdivision (c): Respondent Airco issued electronic
2 Certificate of Compliance No. VP086493 for that vehicle even though the vehicle had not been
3 inspected in accordance with section 3340.42 of that Code.

4 c. Section 3340.42: Respondent Airco failed to conduct the required smog
5 tests and inspections on the 1994 Nissan Sentra in accordance with the Bureau's specifications.

6 **SEVENTH CAUSE FOR DISCIPLINE**

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

8 20. Respondent Airco has subjected his station license to discipline under
9 Health and Safety Code section 44072.2, subdivision (d), in that on or about March 20, 2008, he
10 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
11 Certificate of Compliance No. VP086493 without performing a bona fide inspection of the
12 emission control devices and systems on that vehicle, thereby depriving the People of the State of
13 California of the protection afforded by the Motor Vehicle Inspection Program.

14 **EIGHTH CAUSE FOR DISCIPLINE**

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

16 21. Respondent Asatryan has subjected his technician license to discipline
17 under Health and Safety Code section 44072.2, subdivision (a), in that on or about March 20,
18 2008, regarding the 1994 Nissan Sentra, he violated sections of that Code, as follows:

19 a. Section 44012, subdivision (a): Respondent Asatryan failed to
20 determine that all emission control devices and systems required by law were installed and
21 functioning correctly in accordance with test procedures.

22 b. Section 44012, subdivision (f): Respondent Asatryan failed to perform
23 emission control tests on those vehicles in accordance with procedures prescribed by the
24 department.

25 c. Section 44032: Respondent Asatryan failed to perform tests of the
26 emission control devices and systems on that vehicles in accordance with section 44012 of that
27 Code.

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1 d. **Section 44059:** Respondent Asatryan willfully entered false information
2 for electronic Certificate of Compliance No. VP086493, certifying that the vehicle had been
3 inspected as required when, in fact, it had not.

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

6 22. Respondent Asatryan has subjected his technician license to discipline
7 under Health and Safety Code section 44072.2, subdivision (c), in that on or about March 20,
8 2008, regarding the 1994 Nissan Sentra, he violated sections of the California Code of
9 Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Asatryan falsely or
11 fraudulently issued electronic Certificate of Compliance No. VP086493 for that vehicle without
12 performing a bona fide inspection of the emission control devices and systems on the vehicle as
13 required by Health and Safety Code section 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Asatryan failed to inspect
15 and test that vehicle in accordance with Health and Safety Code section 44012.

16 c. **Section 3340.41, subdivision (c):** Respondent Asatryan entered false
17 information into the Emission Inspection System ("EIS") unit by entering "Pass" for the
18 functional portion of the smog test when, in fact, the vehicle could not have passed the functional
19 portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the
20 manufacturer's specifications.

21 **TENTH CAUSE FOR DISCIPLINE**

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

23 23. Respondent Asatryan has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (d), in that on or about March 20,
25 2008, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
26 issuing electronic Certificate of Compliance No. VP086493 for the 1994 Nissan Sentra without
27 performing a bona fide inspection of the emission control systems and devices on that vehicle,

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1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **PRIOR CITATIONS**

4 24. To determine the degree of discipline, if any, to be imposed on
5 Respondents Airco and Asatryan, Complainant alleges as follows:

6 a. On or about September 14, 2006, the Bureau issued Citation No. C07-
7 0090 against Respondent Airco's registration and station licenses for violations of Health &
8 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
9 emission control devices according to procedures prescribed by the department), and California
10 Code of Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a
11 certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
12 compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond the
13 manufacturer's specifications. The Bureau assessed civil penalties totaling \$500 against
14 Respondent Airco for the violations.

15 b. On or about September 14, 2006, the Bureau issued Citation No. M07-
16 0091 against Respondent Asatryan's technician license for violations of Health & Safety Code
17 section 44032, (failure to perform tests and inspects in accordance with H&S section 44012), and
18 California Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect,
19 test, and repair vehicles in accordance with H&S sections 44012, 44035, and Regulation
20 3340.42) for issuing a certificate of compliance to a Bureau undercover vehicle with the ignition
21 timing adjusted beyond the manufacturer's specifications. Respondent Asatryan was required to
22 attend an 8-hour training course.

23 c. On or about January 29, 2007, the Bureau issued Citation No. C07-0494
24 against Respondent Airco's registration and station licenses for violations of Health & Safety
25 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
26 control devices according to procedures prescribed by the department), and California Code of
27 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
28 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a

1 Bureau undercover vehicle with the ignition timing adjusted beyond the manufacturer's
2 specifications. The Bureau assessed civil penalties totaling \$1,000 against Respondent Airco for
3 the violations.

4 d. On or about January 29, 2007, the Bureau issued Citation No. M07-0495
5 against Respondent Asatryan's technician license for violations of Health & Safety Code section
6 44032, (failure to perform tests and inspects in accordance with H&S section 44012), and
7 California Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect,
8 test, and repair vehicles in accordance with H&S sections 44012, 44035, and Regulation
9 3340.42) for issuing a certificate of compliance to a Bureau undercover vehicle with the ignition
10 timing adjusted beyond the manufacturer's specifications. Respondent Asatryan was required to
11 attend a 16-hour training course.

12 e. On or about June 26, 2007, the Bureau issued Citation No. C07-1053
13 against Respondent Airco's registration and station licenses for violations of Health & Safety
14 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
15 control devices according to procedures prescribed by the department), and California Code of
16 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
17 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
18 Bureau undercover vehicle with a missing positive crankcase ventilation system. The Bureau
19 assessed civil penalties totaling \$2,000 against Respondent Airco for the violations.

20 f. On or about June 26, 2007, the Bureau issued Citation No. M07-1054
21 against Respondent Asatryan's technician license for violations of Health & Safety Code section
22 44032, (failure to perform tests and inspects in accordance with H&S section 44012), and
23 California Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect,
24 test, and repair vehicles in accordance with H&S sections 44012, 44035, and Regulation
25 3340.42) for issuing a certificate of compliance to a Bureau undercover vehicle with a missing
26 positive crankcase ventilation system. Respondent Asatryan was required to attend a basic clean
27 air car course.

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1 OTHER MATTERS

2 25. Under Code section 9884.7, subdivision (c), the director may invalidate
3 temporarily or permanently or refuse to validate, the registrations for all places of business
4 operated in this state by Steve A. Hartman doing business as Airco Smog, upon a finding that he
5 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
6 pertaining to an automotive repair dealer.

7 26. Under Health & Safety Code section 44072.8, if Smog Check Station
8 License Number TC 226372, issued to Steve A. Hartman doing business as Airco Smog, is
9 revoked or suspended, any additional license issued under this chapter in the name of said
10 licensee may be likewise revoked or suspended by the director.

11 27. Under Health & Safety Code section 44072.8, if Advanced Emission
12 Specialist Technician License Number EA 144197, issued to Edward Asatryan, is revoked or
13 suspended, any additional license issued under this chapter in the name of said licensee may be
14 likewise revoked or suspended by the director.

15 PRAYER

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

18 1. Temporarily or permanently invalidating Automotive Repair Dealer
19 Registration Number ARD 226372, issued to Steve A. Hartman doing business as Airco Smog;

20 2. Temporarily or permanently invalidating any other automotive repair
21 dealer registration issued to Steve A. Hartman doing business as Airco Smog;

22 3. Revoking or suspending Smog Check Test Only Station License Number
23 TC 226372, issued to Steve A. Hartman doing business as Airco Smog;

24 4. Revoking or suspending any additional license issued under Chapter 5 of
25 the Health & Safety Code in the name of Steve A. Hartman doing business as Airco Smog;

26 5. Revoking or suspending Advanced Emission Specialist Technician
27 License Number EA 144197, issued to Edward Asatryan;

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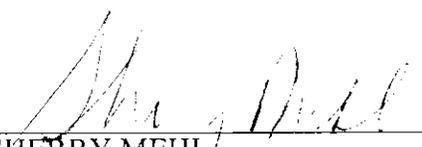
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6. Revoking or suspending any additional license issued under Chapter 5 of the Health & Safety Code in the name of Edward Asatryan;

7. Ordering Steve A. Hartman and Edward Asatryan to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 10/20/08



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant