

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 SETH A. CURTIS
Deputy Attorney General
4 State Bar No. 236263
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6121
Facsimile: (916) 324-5567
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against:

Case No. 79/21-6737

14 **FARHAD ARBABZADEH, PARTNER**
15 **MASSOUD KHOSROZADEHE, PARTNER,**
DBA SMOG MASTER
16 28 E. Birch
Fresno, CA 93650

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 **Automotive Repair Dealer Registration**
No. ARD 228231
18 **Smog Check, Test Only, Station License**
No. TC 228231

19
20 Respondent.

21 **PARTIES**

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

25 2. In or around 2003, the Bureau issued Automotive Repair Dealer Registration Number
26 ARD 228231 to Farhad Arbabzadeh and Massoud Khosrozadehe as partners, doing business as
27 Smog Master (Respondent). The Automotive Repair Dealer Registration was in effect at all times
28 relevant to the charges brought herein and will expire on June 30, 2022, unless renewed.

3. On or about November 24, 2003, the Bureau issued Smog Check, Test Only, Station License Number TC 228231 to Respondent. The Smog Check, Test Only, Station License was in effect at all times relevant to the charges brought herein and will expire on June 30, 2022, unless renewed.

DISCIPLINARY HISTORY

4. In a disciplinary action entitled "*In the Matter of Accusation Against Farhad Arbabzadeh, partner, and Massoud Khosrozadehe, partner, dba Smog Master, et al.*," Case No. 79/16-9952, the Director of the Department of Consumer Affairs (Director) for the Bureau issued a Decision, effective March 27, 2019, in which Respondent's Automotive Repair Dealer Registration and Smog Check, Test Only, Station License were revoked. However, the revocations were stayed and Respondent's Automotive Repair Dealer Registration and Smog Check, Test Only, Station License were placed on probation for a period of four (4) years with certain terms and conditions.

ACCUSATION

JURISDICTION

5. This Accusation is brought before the Director for the Bureau under the authority of the following laws.

6. Business and Professions Code (Code) section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

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

8. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

9. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer

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

10. Health & Saf. Code section 44072.8 states that when a license has been revoked 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.

STATUTORY PROVISIONS

11. 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.

...

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(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 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.

12. Code section 9889.3 states, in pertinent part:

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

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

3 ...

4 (c) Violates any of the regulations promulgated by the director pursuant to this
5 chapter [the Automotive Repair Act].

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

8 ...

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

11 13. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

18 ...

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

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

23 **REGULATORY PROVISIONS**

24 14. California Code of Regulations, title 16 (CCR), section 3340.35, states, in pertinent
25 part:

26 ...

27 (c) A licensed station shall issue a certificate of compliance or noncompliance
28 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. The
following conditions shall apply:

(1) Customers shall be charged the same price for certificates as that paid by
the licensed station; and

(2) Sales tax shall not be assessed on the price of certificates.

15. CCR section 3340.42, states:

Smog check inspection methods are prescribed in the Smog Check Manual,
referenced by section 3340.45.

1 (a) All vehicles subject to a smog check inspection, shall receive one of the
2 following test methods:

3 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
4 model-year vehicle, except diesel-powered, registered in the enhanced program areas
5 of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
6 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
7 specifications referenced in subsection (a) of Section 3340.17 of this article. The
8 loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
9 including a chassis dynamometer, certified by the bureau.

10 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
11 inspection shall be measured and compared to the emissions standards shown in the
12 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
13 dated March 2010, which is hereby incorporated by reference. If the emissions
14 standards for a specific vehicle are not included in this table then the exhaust
15 emissions shall be compared to the emissions standards set forth in TABLE I or
16 TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
17 emissions are less than or equal to the applicable emission standards specified in the
18 applicable table.

19 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -
20 1999 model-year vehicles, except diesel-powered, registered in all program areas of
21 the state, except in those areas of the state where the enhanced program has been
22 implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
23 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
24 contained in the bureau's specifications referenced in subsection (a) of Section
25 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
26 shall be measured and compared to the emission standards set forth in this section and
27 as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
28 measured emissions are less than or equal to the applicable emissions standards
specified in Table III.

(3) An OBD-focused test, shall be the test method used to inspect gasoline-
powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
model-year and newer. The OBD test failure criteria are specified in section
3340.42.2.

(b) In addition to subsection (a), all vehicles subject to the smog check program
shall receive the following:

(1) A visual inspection of emission control components and systems to verify
the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the
Smog Check Manual, referenced by section 3340.45, which may include an OBD
test, to verify their proper operation.

(c) The bureau may require any combination of the inspection methods in
sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to Health and Safety
Code section 44014.7 as a means of identifying potential operational problems with
vehicle OBD systems.

///

1 (2) Vehicles identified by the bureau as being operationally or physically
2 incompatible with inspection equipment.

3 (3) Vehicles with OBD systems that have demonstrated operational problems.

4 (d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
5 standards are as follows:

6 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
7 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
8 standards included in the tables described in subsection (a), as applicable.

9 (2) Vehicles with emission levels exceeding the emission standards for gross
10 polluters during an initial inspection will be considered gross polluters and the
11 provisions pertaining to gross polluting vehicles will apply, including, but not limited
12 to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

13 (3) A gross polluting vehicle shall not be passed or issued a certificate of
14 compliance until the vehicle's emissions are reduced to or below the applicable
15 emissions standards for the vehicle included in the tables described in subsection (a),
16 as applicable. However, the provisions described in section 44017 of the Health and
17 Safety Code may apply.

18 (4) This subsection applies in all program areas statewide to vehicles requiring
19 inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

20 **COST RECOVERY**

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

27 **UNDERCOVER OPERATION.**

28 17. On and between March 29, 2021, and April 5, 2021, a Bureau representative
documented the Bureau's 2001 Ford to fail a properly performed smog inspection due to missing
Positive Crankcase Ventilation (PCV) system components.

18. On or about May 27, 2021, an undercover operator with the Bureau (operator) took
the 2001 Ford to Respondent's facility and requested a smog inspection. After the inspection was
completed, the operator paid the facility \$48.00 and received a copy of Invoice No. 235775 and a
vehicle inspection report (VIR). The VIR indicated that Respondent performed a smog inspection

1 on the vehicle. The same day, electronic Smog Certificate of Compliance No. SC348190C was
2 issued for the vehicle.

3 19. On or about May 27, 2021, a Bureau representative inspected the vehicle and found
4 that the vehicle could not have passed a smog inspection because the PCV system components
5 were still missing.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statements)**

8 20. Respondent's registration is subject to disciplinary action pursuant to Code section
9 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in
10 the exercise of reasonable care should have known to be untrue or misleading. Specifically, on or
11 about May 27, 2021, Respondent certified under penalty of perjury that the Bureau's 2001 Ford
12 passed a smog inspection and was in compliance with applicable laws and regulations. In fact,
13 the vehicle could not have passed a smog inspection because the PCV system components were
14 still missing.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 21. Respondent's registration is subject to disciplinary action pursuant to Code section
18 9884.7, subdivision (a)(4), in that on or about May 27, 2021, Respondent committed an act that
19 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 2001
20 Ford without ensuring that a bona fide inspection was performed of the emission control devices
21 and systems on the vehicle, thereby depriving the people of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Record Odometer Reading)**

25 22. Respondent's registration is subject to disciplinary action pursuant to Code
26 section 9884.7, subdivision (a)(2), in that on or about May 27, 2021, Respondent caused or
27 allowed the operator to sign an estimate that failed to state the vehicle's odometer reading.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Motor Vehicle Inspection Program - Code Violations)**

3 23. Respondent's smog check, test only, station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that on or about May 27,
5 2021, Respondent failed to comply with provisions of that Code, as follows:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
7 performed on the Bureau's 2001 Ford in accordance with procedures prescribed by the
8 department.

9 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
10 the Bureau's 2001 Ford without ensuring that the vehicle was properly tested and inspected to
11 determine if it was in compliance with Health & Saf. Code section 44012.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations)**

14 24. Respondent's smog check, test only, station license is subject to disciplinary action
15 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that on or about May 27,
16 2021, Respondent failed to comply with provisions of the CCR, as follows:

17 a. **CCR section 3340.35(c):** Respondent issued an electronic smog certificate of
18 compliance for the Bureau's 2001 Ford even though the vehicle had not been inspected in
19 accordance with Regulations section 3340.42.

20 b. **CCR section 3340.42:** Respondent failed to ensure that the required smog tests were
21 conducted on the Bureau's 2001 Ford in accordance with the Bureau's specifications.

22 **SIXTH CAUSE FOR DISCIPLINE**

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

24 25. Respondent's smog check, test only, station license is subject to disciplinary action
25 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that on or about May 21,
26 2021, Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured
27 by issuing an electronic smog certificate of compliance for the Bureau's 2001 Ford without
28 ensuring that a bona fide inspection was performed of the emission control devices and systems

1 on the vehicle, thereby depriving the people of the State of California of the protection afforded
2 by the Motor Vehicle Inspection Program.

3 **PETITION TO REVOKE PROBATION**

4 26. Complainant incorporates by reference as though fully set forth herein the allegations
5 set forth above in paragraphs 17 through 25.

6 27. This Petition to Revoke Probation is brought before the Director under the authority
7 of the Director's Decision in *In the Matter of Accusation Against Farhad Arbabzadeh, partner,*
8 *and Massoud Khosrozadehe, partner, dba Smog Master, et al.*, Case No. 79/16-9952.

9 28. At all times after the effective date of Respondent's probation, Condition 6 states:

10 If Respondent violates or fails to comply with the terms and conditions of
11 probation in any respect, the Director, after giving notice and opportunity to be heard
12 may set aside the stay order and carry out the disciplinary order provided in the
13 decision. Once Respondent is served notice of BAR's intent to set aside the stay, the
14 Director shall maintain jurisdiction, and the period of probation shall be extended
15 until final resolution of the matter.

16 29. Respondent's probation is subject to revocation, in that Respondent did not comply
17 with the terms and conditions of Respondent's probation, as more particularly set forth below.

18 **CAUSE TO REVOKE PROBATION**

19 **(Obey All Laws)**

20 30. At all times after the effective date of Respondent's probation, Condition 1 states:

21 During the period of probation, Respondent shall comply with all federal and
22 state statutes, regulations and rules governing BAR registrations and licenses held by
23 Respondent.

24 31. Respondent's probation is subject to revocation in that Respondent failed to comply
25 with statutes, regulations, and rules governing automotive inspections, as set forth above in
26 paragraphs 20 through 25, incorporated herein by reference.

27 **OTHER MATTERS**

28 32. Under Code section 9884.7, subdivision (c), the Director may invalidate temporarily
or permanently or refuse to validate, the registrations for all places of business operated in this
state by Respondent Farhad Arbabzadeh, upon a finding that he has, or is, engaged in a course of

1 repeated and willful violations of the laws and regulations pertaining to an automotive repair
2 dealer.

3 33. Under Code section 9884.7, subdivision (c), the Director may invalidate temporarily
4 or permanently or refuse to validate, the registrations for all places of business operated in this
5 state by Respondent Massoud Khosrozadehe, upon a finding that he has, or is, engaged in a
6 course of repeated and willful violations of the laws and regulations pertaining to an automotive
7 repair dealer.

8 34. Under Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
9 License Number TC 228231, issued to Smog Master, Farhad Arbabzadeh and Massoud
10 Khosrozadehe as partners, is revoked or suspended, any additional license issued under this
11 chapter in the name of 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 issue a decision:

15 1. Revoking the probation that was granted by the Bureau Case No. 79/16-9952 and
16 imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer
17 Registration No. ARD 228231, and Smog Check, Test Only, Station License No. TC 228231,
18 issued to Farhad Arbabzadeh and Massoud Khosrozadehe as partners, doing business as Smog
19 Master;

20 2. Revoking or suspending Automotive Repair Dealer Registration No. ARD 228231,
21 issued to Farhad Arbabzadeh and Massoud Khosrozadehe as partners;

22 3. Revoking or suspending any other automotive repair dealer registration issued to
23 Farhad Arbabzadeh and Massoud Khosrozadehe as partners, doing business as Smog Master;

24 4. Revoking or suspending Smog Check, Test Only, Station License No. TC 228231,
25 issued to Farhad Arbabzadeh and Massoud Khosrozadehe as partners, doing business as Smog
26 Master;

27 5. Revoking or suspending any additional license issued under Division 3, Chapter 20.3,
28 Articles 5 and 6 of the Business and Professions Code in the name of Farhad Arbabzadeh;

1 6. Revoking or suspending any additional license issued under Division 3, Chapter 20.3,
2 Articles 5 and 6 of the Business and Professions Code in the name of Farhad Arbabzadeh;

3 7. Ordering Farhad Arbabzadeh and Massoud Khosrozadehe as partners, doing business
4 as Smog Master, to pay the Director of Consumer Affairs the reasonable costs of the investigation
5 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

6 8. Taking such other and further action as deemed necessary and proper.
7

8
9 DATED: As of Digital Signature Date

Dorais,

Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2021.10.14 16:30:47
-07'00'

PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

10
11
12
13
14 SA2021303506
15 35375571.docx
16
17
18
19
20
21
22
23
24
25
26
27
28