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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. 79/25-19459

13 **IN SHAPE SMOG CHECK, INC.,**
14 **DBA IN SHAPE SMOG CHECK TEST**
15 **ONLY CENTER**
16 **KYUNG HAN YOON, PRES/SEC/TRES**
1039 W. Yosemite Avenue
Manteca, CA 95337

ACCUSATION

16 Mailing Address:
4079 Castellina Way
17 Manteca, CA 95337

18 **Automotive Repair Dealer Registration**
19 **No. ARD 229303**
20 **Smog Check, Test-Only, Station License**
21 **No. TC 229303,**

22 **and**

23 **KYUNG HAN YOON**
4079 Castellina Way
Manteca, California 95337

24 **Smog Check Inspector License**
25 **No. EO 141390**

Respondents.

26
27 ///

28 ///

1 **PARTIES**

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

4 **Automotive Repair Dealer Registration**

5 2. On or about September 22, 2003, the Bureau issued Automotive Repair Dealer
6 Registration Number ARD 229303 to In Shape Smog Check, Inc., doing business as In Shape
7 Smog Check Test Only Center (Respondent In Shape) with Kyung Han Yoon (Respondent Yoon)
8 as President. The Automotive Repair Dealer Registration was in full force and effect at all times
9 relevant to the charges brought herein and will expire on August 31, 2026, unless renewed.

10 **Smog Check, Test-Only, Station License**

11 3. On or about February 9, 2008, the Bureau issued Smog Check, Test-Only, Station
12 License Number TC 229303 to Respondent In Shape. The Smog Check, Test-Only, Station
13 License was in full force and effect at all times relevant to the charges brought herein and will
14 expire on August 31, 2026, unless renewed. On or about June 3, 2013, the Smog Check Station
15 License was certified as a STAR station. This certification will remain active unless the
16 automotive repair dealer registration or smog check station license is revoked, cancelled, becomes
17 delinquent, or the certification is suspended.

18 **Smog Check Inspector License**

19 4. On or about March 25, 2014, the Bureau issued Smog Check Inspector License
20 Number EO 141390 to Respondent Yoon. The Smog Check Inspector License was in full force
21 and effect at all times relevant to the charges brought herein and will expire on March 31, 2028,
22 unless renewed.

23 **JURISDICTION**

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

27 6. Code section 477 provides, in pertinent part, that Board includes bureau, commission,
28 committee, department, division, examining committee, program, and agency. License includes

1 certificate, registration, or other means to engage in a business or profession regulated by the
2 Code.

3 7. 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 8. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent
8 part, that the Director has all the powers and authority granted under the Automotive Repair Act
9 for enforcing the Motor Vehicle Inspection Program.

10 9. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
11 suspension of a license by operation of law or by order or decision of the Director of Consumer
12 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
13 of jurisdiction to proceed with disciplinary action.

14 10. Health & Saf. Code section 44072.8 states that when a license has been revoked or
15 suspended following a hearing under this article, any additional licenses issued under this chapter
16 in the name of the licensee may be likewise revoked or suspended by the Director.

17 **STATUTORY PROVISIONS**

18 11. Code section 9884.7 states, in pertinent part:

19 (a) The director, where the automotive repair dealer cannot show there was a
20 bona fide error, may deny, suspend, revoke, or place on probation the registration of
21 an automotive repair dealer for any of the following acts or omissions related to the
22 conduct of the business of the automotive repair dealer, which are done by the
23 automotive repair dealer or any automotive technician, employee, partner, officer, or
24 member of the automotive repair dealer.

25 (1) Making or authorizing in any manner or by any means whatever any
26 statement written or oral which is untrue or misleading, and which is known, or which
27 by the exercise of reasonable care should be known, to be untrue or misleading.

28 ...

(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.

...

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

6 12. Code section 9884.11 states:

7 Each automotive repair dealer shall maintain any records that are required by
8 regulations adopted to carry out this chapter. Those records shall be open for
9 reasonable inspection by the chief or other law enforcement officials. All of those
10 records shall be maintained for at least three years.

11 13. Code section 9889.22 states:

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

17 14. Health & Saf. Code section 44012, states, in pertinent part:

18 The test at the smog check stations shall be performed in accordance with
19 procedures prescribed by the department and may require loaded mode
20 dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a
21 vehicle's onboard diagnostic system, or other appropriate test procedures as
22 determined by the department in consultation with the state board. The department
23 shall implement testing using onboard diagnostic systems, in lieu of loaded mode
24 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles
25 only, beginning no earlier than January 1, 2013. However, the department, in
26 consultation with the state board, may prescribe alternative test procedures that
27 include loaded mode dynamometer or two-speed idle testing for vehicles with
28 onboard diagnostic systems that the department and the state board determine
exhibit operational problems. The department shall ensure, as appropriate to the
test method, the following:

(a) Emission control systems required by state and federal law are reducing
excess emissions in accordance with the standards adopted pursuant to
subdivisions (a) and (c) of Section 44013.

...

(f) A visual or functional check is made of emission control devices
specified by the department, including the catalytic converter in those instances in
which the findings of Section 44001. The visual or functional check shall be
performed in accordance with the procedures as prescribed by the department....

15. Health & Saf. Code section 44015, subdivision (b), provides that a certificate
of compliance shall be issued if a vehicle meets the requirements of the Health & Saf. Code
section 44012.

1 16. Health & Saf. Code section 44032 provides that qualified technicians shall perform
2 tests of emissions control devices and systems in accordance with Health & Saf. Code section
3 40012.

4 17. Health & Saf. Code section 44059 states:

5 The willful making of any false statement or entry with regard to a material
6 matter in any oath, affidavit, certificate of compliance or noncompliance, or
7 application form which is required by this chapter or Chapter 20.3 (commencing
8 with Section 9880) of Division 3 of the Business and Professions Code, constitutes
9 perjury and is punishable as provided in the Penal Code.

10 18. 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
13 thereof, does any of the following:

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

17 ...

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

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

22 19. Health & Saf. Code section 44072.10 states, in pertinent part:

23 ...

24 (c) The department shall revoke the license of any smog check technician or
25 station license who fraudulently certifies vehicles or participates in the fraudulent
26 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
27 the following:

28 ...

 (4) Intentional or willful violation of this chapter or any regulation, standard, or
procedure of the department implementing this chapter....

REGULATORY PROVISIONS

20. California Code of Regulations, title 16 (CCR), section 3340.30 states, in
pertinent part:

A licensed smog check inspector and/or repair technician shall comply with the
following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article....

21. CCR section 3340.35, states, in pertinent part:

...

(c) A licensed station shall issue a certificate of compliance or noncompliance 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....

22. CCR section 3340.41, states, in pertinent part:

...

(c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested....

23. CCR section 3340.42, states:

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

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

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

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

(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-year vehicles, except diesel-powered, registered in all program areas of the state, except in those areas of the state where the enhanced program has been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection

1 shall be measured and compared to the emission standards set forth in this section and
2 as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
3 measured emissions are less than or equal to the applicable emissions standards
4 specified in Table III.

5 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
6 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
7 model-year and newer. The OBD test failure criteria are specified in section
8 3340.42.2.

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

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

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

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

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

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

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

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

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

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

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

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

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1 and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition
2 Device (DAD), computer, bar code scanner, and printer.

3 28. The DAD is an On-Board Diagnostic (OBD) scan tool that, when requested by the
4 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between
5 the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used
6 to input technician information, the vehicle identification number, and the Department of Motor
7 Vehicle (DMV) renewal information. The vehicle identification number (VIN) that is physically
8 present on all vehicles is required to be programmed into the vehicle's On-Board Diagnostics —
9 Generation II (OBD II) on 2005 and newer vehicles, and on many occasions was programmed
10 into the OBD II computer in earlier model-years. The electronically programmed VIN is referred
11 to as the “eVIN”, is captured by the Bureau during a smog check inspection and should match the
12 physical VIN on the vehicle. The printer is used to provide a vehicle inspection report, which
13 shows the inspection results and the Smog Check Certificate of Compliance Number for passing
14 vehicles. Data retrieved and recorded during an OIS smog check includes the eVIN, the
15 communication protocol¹, and the number of Parameter Identifications (PID)².

16 **REVIEW OF OIS TEST DATA**

17 29. Bureau representative D.W. reviewed BAR-OIS test data pertaining to smog
18 inspections conducted at Respondent In Shape’s facility. D.W. found that Respondent Yoon had
19 performed smog check inspections on ten vehicles identified below using a method known as
20 "clean plugging,"³ resulting in the issuance of fraudulent certificates of compliance for the
21 vehicles.

22 ///

23 ¹ The OBD II communication protocol describes the specified communication “language” used by
24 the OBD II computer to communication to scan tools and other devices such as the BAR-OIS. The
25 communication protocol is programmed into the vehicle's on-board computer during manufacture and does
26 not change.

27 ² PIDs are data points reported by the vehicle's on-board computer to a scan tool or BAR-OIS,
28 such as engine speed, vehicle speed, engine temperature, etc. The PID count is the number of data points.

³ Clean plugging is the use of a vehicle’s properly functioning OBD II system, or another source,
to generate passing diagnostic readings for the purpose of issuing a fraudulent smog certificate of
compliance to another vehicle that is not in compliance with the Smog Check Program and/or is not
present for testing.

Vehicle 1

30. BAR-OIS test data showed that on July 23, 2023, Respondent Yoon performed a smog check inspection on a 2015 Chevrolet Impala (Vehicle 1), resulting in the issuance of Certificate of Compliance No. TK732477C. The OIS test details for Vehicle 1 showed that the eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other 2015 Chevrolet Impala vehicles and found that they transmit an eVIN. D.W. concluded that the DAD had not been connected to Vehicle 1 during the smog check inspection performed by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 1.

31. D.W. utilized the Bureau's database and found that Vehicle 1 had subsequently been tested at Respondent In Shape's facility. The BAR-OIS test data from that inspection showed the eVIN had been reported as expected.

Vehicle 2

32. BAR-OIS test data showed that on May 2, 2024, Respondent Yoon performed a smog check inspection on a 2005 Chevrolet Tahoe (Vehicle 2), resulting in the issuance of Certificate of Compliance No. TW618554C. The OIS test details for Vehicle 2 showed that the eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other 2005 Chevrolet Tahoe vehicles and found that they transmit an eVIN. D.W. concluded that the DAD had not been connected to Vehicle 2 during the smog check inspection performed by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 2.

33. D.W. utilized the Bureau's database and found that Vehicle 2 had previously been tested six times at Respondent In Shape's facility and other facilities. The BAR-OIS test data from those inspections showed the eVIN had been reported as expected.

Vehicle 3

34. BAR-OIS test data showed that on May 22, 2025, Respondent Yoon performed a smog check inspection on a 2017 Honda Civic (Vehicle 3), resulting in the issuance of Certificate of Compliance No. UO661040C. The OIS test details for Vehicle 3 showed that the eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other

1 2017 Honda Civic vehicles and found that they transmit an eVIN. D.W. concluded that the DAD
2 had not been connected to Vehicle 3 during the smog check inspection performed by Respondent
3 Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 3.

4 35. D.W. utilized the Bureau's database and found that Vehicle 3 had previously been
5 tested at a different facility. The BAR-OIS test data from that inspection showed the eVIN had
6 been reported as expected.

7 **Vehicle 4**

8 36. BAR-OIS test data showed that on May 28, 2025, Respondent Yoon performed a
9 smog check inspection on a 2015 Jeep Grand Cherokee (Vehicle 4), resulting in the issuance of
10 Certificate of Compliance No. UO922057C. The OIS test details for Vehicle 4 showed that the
11 eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data
12 for other 2015 Jeep Grand Cherokee vehicles and found that they transmit an eVIN. D.W.
13 concluded that the DAD had not been connected to Vehicle 4 during the smog check inspection
14 performed by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance
15 for Vehicle 4.

16 37. D.W. utilized the Bureau's database and found that Vehicle 4 had previously been
17 tested at a different facility. The BAR-OIS test data from that inspection showed the eVIN had
18 been reported as expected.

19 **Vehicle 5**

20 38. BAR-OIS test data showed that on June 5, 2025, Respondent Yoon performed a smog
21 check inspection on a 2015 Nissan Altima (Vehicle 5), resulting in the issuance of Certificate of
22 Compliance No. UQ157512C. The OIS test details for Vehicle 5 showed that the eVIN had not
23 been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other
24 2015 Nissan Altima vehicles and found that they transmit an eVIN. D.W. concluded that the
25 DAD had not been connected to Vehicle 5 during the smog check inspection performed by
26 Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 5.

27 39. D.W. utilized the Bureau's database and found that Vehicle 5 had previously been
28 tested at different facilities. The BAR-OIS test data from those inspections showed the eVIN had

1 been reported as expected.

2 **Vehicle 6**

3 40. BAR-OIS test data showed that on June 10, 2025, Respondent Yoon performed a
4 smog check inspection on a 2015 Hyundai Accent (Vehicle 6), resulting in the issuance of
5 Certificate of Compliance No. UQ294887C. The OIS test details for Vehicle 5 showed that the
6 eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data
7 for other 2015 Hyundai Accent vehicles and found that they transmit an eVIN. D.W. concluded
8 that the DAD had not been connected to Vehicle 6 during the smog check inspection performed
9 by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle
10 6.

11 41. D.W. utilized the Bureau's database and found that Vehicle 6 had previously been
12 tested at different facilities. The BAR-OIS test data from those inspections showed the eVIN had
13 been reported as expected. In utilizing the Bureau's database, D.W. also found that on June 9,
14 2025, Vehicle 6 had failed smog check inspection at a different facility.

15 **Vehicle 7**

16 42. BAR-OIS test data showed that on June 12, 2025, Respondent Yoon performed a
17 smog check inspection on a 2017 Honda Accord (Vehicle 7), resulting in the issuance of
18 Certificate of Compliance No. UQ422304C. The OIS test details for Vehicle 7 showed that the
19 eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data
20 for other 2017 Honda Accord vehicles and found that they transmit an eVIN. D.W. concluded
21 that the DAD had not been connected to Vehicle 7 during the smog check inspection performed
22 by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle
23 7.

24 43. D.W. utilized the Bureau's database and found that Vehicle 7 had previously been
25 tested during a Bureau's Roadside Emissions Survey. The BAR-OIS test data from that
26 inspection showed the eVIN had been reported as expected. Vehicle 7 had failed the smog check
27 inspection during the Bureau's Roadside Emissions Survey.

28 ///

Vehicle 8

44. BAR-OIS test data showed that on June 16, 2025, Respondent Yoon performed a smog check inspection on a 2013 Ford Explorer (Vehicle 7), resulting in the issuance of Certificate of Compliance No. UQ422341C. The OIS test details for Vehicle 8 showed that the eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other 2013 Ford Explorer vehicles and found that they transmit an eVIN. D.W. concluded that the DAD had not been connected to Vehicle 8 during the smog check inspection performed by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 8.

45. D.W. utilized the Bureau's database and found that Vehicle 8 had subsequently been tested at a different facility. The BAR-OIS test data from that inspection showed the eVIN had been reported as expected. In utilizing the Bureau's database, D.W. also found that Vehicle 8 had previously been tested at different facilities. The BAR-OIS test data from those inspections showed the eVIN had been reported as expected.

Vehicle 9

46. BAR-OIS test data showed that on June 17, 2025, Respondent Yoon performed a smog check inspection on a 2008 Chevrolet Silverado (Vehicle 9), resulting in the issuance of Certificate of Compliance No. UQ560823C. The OIS test details for Vehicle 9 showed that the eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data for other 2008 Chevrolet Silverado vehicles and found that they transmit an eVIN. D.W. concluded that the DAD had not been connected to Vehicle 9 during the smog check inspection performed by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle 9.

47. D.W. utilized the Bureau's database and found that Vehicle 9 had previously been tested six times at different facilities. The BAR-OIS test data from those inspections showed the eVIN had been reported as expected.

Vehicle 10

48. BAR-OIS test data showed that on June 17, 2025, Respondent Yoon performed a smog check inspection on a 2016 Honda Accord (Vehicle 10), resulting in the issuance of

1 Certificate of Compliance No. UQ560817C. The OIS test details for Vehicle 10 showed that the
2 eVIN had not been reported during the inspection. D.W. reviewed the Comparative OIS Test Data
3 for other 2016 Honda Accord vehicles and found that they transmit an eVIN. D.W. concluded
4 that the DAD had not been connected to Vehicle 10 during the smog check inspection performed
5 by Respondent Yoon, resulting in a fraudulent smog check certificate of compliance for Vehicle
6 10.

7 49. D.W. utilized the Bureau's database and found that Vehicle 10 had previously been
8 tested at a different facility. The BAR-OIS test data from that inspection showed the eVIN had
9 been reported as expected.

10 **December 15, 2025, Records Requests**

11 50. On or about December 15, 2025, D.W. contacted Respondent In Shape and requested
12 all records pertaining the Vehicles 1 through 10 referenced in paragraphs 30 through 49, above.
13 Respondent In Shape was unable to produce the records.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements – Respondent In Shape)**

16 51. Respondent In Shape's registration is subject to disciplinary action pursuant to Code
17 section 9884.7, subdivision (a)(1), in conjunction with Code section 9889.22, in that Respondent
18 In Shape made or authorized statements which Respondent In Shape knew or in the exercise of
19 reasonable care should have known to be untrue or misleading. Specifically, Respondent In
20 Shape certified that Vehicles 1 through 10, identified in paragraphs 30 through 49, above, passed
21 inspection and were in compliance with applicable laws and regulations when, in fact, those
22 vehicles had not been properly inspected.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Fraud – Respondent In Shape)**

25 52. Respondent In Shape's registration is subject to disciplinary action pursuant to Code
26 section 9884.7, subdivision (a)(4), in that Respondent In Shape committed acts that constituted
27 fraud by issuing electronic smog certificates of compliance for Vehicles 1 through 10, identified
28 in paragraphs 30 through 49, above, without ensuring that bona fide inspections had been

1 performed of the emission control devices and systems on the vehicles, thereby depriving the
2 People of the State of California of the protection afforded by the Motor Vehicle Inspection
3 Program.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Material Violation of Automotive Repair Act – Respondent In Shape)**

6 53. Respondent In Shape’s registration is subject to disciplinary action pursuant Code
7 section 9884.7, subdivision (a)(6), in that Respondent In Shape failed in a material respect to
8 comply with the provisions of the chapter or regulations adopted pursuant to it when Respondent
9 In Shape issued electronic certificates of compliance for Vehicles 1 through 10, identified in
10 paragraphs 30 through 49, above, without performing bona fide inspections of the emission
11 control devices and systems on those vehicles, thereby depriving the People of the State of
12 California of the protection afforded by the Motor Vehicle Inspection Program.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program** 15 **– Respondent In Shape)**

16 54. Respondent In Shape’s smog check, test only, station license is subject to discipline
17 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that with regards to Vehicles
18 1 through 10, identified in paragraphs 30 through 49, above, Respondent In Shape failed to
19 comply with the following sections of the CCR’s:

20 a. **Section 3340.35, subdivision (c)**: Respondent In Shape failed to inspect and
21 test Vehicles 1 through 10 in accordance with the procedures specified in section 3340.42 of the
22 CCR.

23 b. **Section 3373**: Respondent In Shape made or authorized documents which it
24 knew or which by exercise of reasonable care should have known to be untrue or misleading,
25 when Respondent issued fraudulent smog certificates of compliance for Vehicles 1 through 10.

26 **FIFTH CAUSE FOR DISCIPLINE**

27 **(Violations of the Motor Vehicle Inspection Program – Respondent In Shape)**

28 55. Respondent In Shape's smog check, test only, station license is subject to disciplinary

1 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that with regards to
2 Vehicles 1 through 10, identified in paragraphs 30 through 49, above, Respondent In Shape failed
3 to comply with the Health & Saf. Code, as follows:

4 a. **Health & Saf. Code, section 44012:** Respondent In Shape failed to ensure that
5 the emission control tests were performed on the vehicles in accordance with procedures
6 prescribed by the department.

7 b. **Health & Saf. Code, section 44015:** Respondent In Shape issued electronic
8 smog certificates of compliance for the vehicles without ensuring that the vehicles were properly
9 tested and inspected to determine if they were in compliance with Health & Saf. Code section
10 44012.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Dishonesty, Fraud or Deceit – Respondent In Shape)**

13 56. Respondent In Shape's smog check, test only, station license is subject to disciplinary
14 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with
15 Health & Saf. Code section 44072.10, subdivision (c), in that Respondent In Shape committed
16 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
17 certificates of compliance for Vehicles 1 through 10, identified in paragraphs 30 through 49,
18 above, without ensuring that a bona fide inspection had been performed of the emission control
19 devices and systems on the vehicles, thereby depriving the people of the State of California of the
20 protection afforded by the Motor Vehicle Inspection Program.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Produce Maintenance and Repair Records – Respondent In Shape)**

23 57. Respondent In Shape's smog check, test only, station license is subject to disciplinary
24 action pursuant to Code section 9884.11 and CCR section 3358 in that Respondent In Shape failed
25 to maintain and produce any records regarding Vehicles 1 through 10, as set forth in paragraph
26 50, above.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program – Respondent Yoon)**

3 58. Respondent Yoon’s smog check inspector license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Yoon
5 violated section 44032 of that Code. Specifically, Respondent Yoon failed to perform the
6 emission control tests on Vehicles 1 through 10, identified in paragraphs 30 through 49, above, in
7 accordance with procedures prescribed by the department.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations – Respondent Yoon)**

10 59. Respondent Yoon’s smog check inspector license is subject to discipline pursuant to
11 Health & Saf. Code section 44072.2, subdivision (c), in that regarding Vehicles 1 through 10,
12 identified in paragraphs 30 through 49, Respondent Yoon failed to comply with provisions of the
13 CCR, as follows:

14 a. **CCR, section 3340.30, subdivision (a)**: Respondent Yoon failed to inspect
15 and test Vehicles 1 through 10 in accordance with Health & Saf. Code section 44012 and CCR
16 section 3340.42.

17 b. **CCR, section 3340.41, subdivision (c)**: Respondent Yoon entered false
18 information into the OIS by entering vehicle identification information for a vehicle other than
19 the one being tested.

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit – Respondent Yoon)**

22 60. Respondent Yoon’s smog check inspector license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
24 Saf. Code section 44072.10, subdivision (c), in that Respondent Yoon committed dishonest,
25 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
26 of compliance for Vehicles 1 through 10, identified in paragraphs 30 through 49, above, without
27 performing bona fide inspections of the emission control devices and systems on those vehicles,
28 thereby depriving the People of the State of California of the protection afforded by the Motor

Vehicle Inspection Program.

MATTERS IN AGGRAVATION

61. To determine the degree of discipline, if any, to be imposed, Complainant alleges as follows:

Respondent In Shape

62. On or about November 14, 2006, the Bureau issued Citation No. C2007-283 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$500.00 fine. Respondent In Shape complied with the citation on or about December 13, 2006.

63. On or about February 8, 2007, the Bureau issued Citation No. C2007-537 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$1,000.00 fine. Respondent In Shape complied with the citation on or about March 20, 2007.

64. On or about May 16, 2008, the Bureau issued Citation No. C2008-1013 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$500.00 fine. Respondent In Shape complied with the citation on or about June 16, 2008.

65. On or about August 11, 2009, the Bureau issued Citation No. C2010-113 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$500.00 fine. Respondent In Shape complied with the citation on or about September 8, 2009.

66. On or about December 4, 2013, the Bureau issued Citation No. C2014-356 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$1,500.00 fine. Respondent In Shape complied with the citation on or about August 14, 2015.

67. On or about October 31, 2017, the Bureau issued Citation No. C2017-2359 against Respondent In Shape. The Bureau directed Respondent In Shape to pay a \$1,500.00 fine. Respondent In Shape complied with the citation on or about February 21, 2019.

Respondent Yoon

68. On or about January 30, 2003, the Bureau issued Citation No. M2003-0794 against Respondent Yoon. The Bureau directed Respondent Yoon to complete an 8-hour training course. Respondent Yoon complied with the citation on or about March 17, 2003.

69. On or about November 14, 2006, the Bureau issued Citation No. M2007-0284 against

1 Respondent Yoon. The Bureau directed Respondent Yoon to complete an 8-hour training course.
2 Respondent Yoon complied with the citation on or about January 27, 2007.

3 70. On or about February 8, 2007, the Bureau issued Citation No. M2007-538 against
4 Respondent Yoon. The Bureau directed Respondent Yoon to complete a 16-hour training course.
5 Respondent Yoon complied with the citation on or about March 29, 2007.

6 71. On or about May 16, 2008, the Bureau issued Citation No. M2008-1014 against
7 Respondent Yoon. The Bureau directed Respondent Yoon to complete an 8-hour training course.
8 Respondent Yoon complied with the citation on or about June 26, 2008.

9 72. On or about August 11, 2009, the Bureau issued Citation No. M2010-114 against
10 Respondent Yoon. The Bureau directed Respondent Yoon to complete an 8-hour training course.
11 Respondent Yoon complied with the citation on or about September 24, 2009.

12 73. On or about December 4, 2013, the Bureau issued Citation No. M2014-357 against
13 Respondent Yoon. The Bureau directed Respondent Yoon to pay a \$500.00 fine and complete an
14 8-hour training course. Respondent Yoon complied with the citation by paying the fine on or
15 about August 14, 2015, and completing the training on or about September 17, 2015.

16 74. On or about October 31, 2017, the Bureau issued Citation No. M2017-2360 against
17 Respondent Yoon. The Bureau directed Respondent Yoon to pay a \$500.00 fine and complete a
18 28-hour training course. Respondent Yoon complied with the citation by completing the training
19 on or about February 9, 2019, and paying the fine on or about February 21, 2019.

20 **OTHER MATTERS**

21 75. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
22 suspend, revoke, or place on probation the registration for all places of business operated in this
23 state by Respondent In Shape, upon a finding that Respondent In Shape has, or is, engaged in a
24 course of repeated and willful violations of the laws and regulations pertaining to an automotive
25 repair dealer.

26 76. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test-Only Station
27 License Number TC 229303, issued to Respondent In Shape, is revoked or suspended, any
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1 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in
2 the name of said licensee may be likewise revoked or suspended by the Director.

3 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
4 Number EO 141390, issued to Respondent Yoon, is revoked or suspended, any additional license
5 issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said
6 licensee may be likewise revoked or suspended by the Director.

7 **PRAYER**

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

11 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
12 229303, issued to In Shape Smog Check, Inc., doing business as In Shape Smog Check Test Only
13 Center, with Kyung Han Yoon as President, Secretary, and Treasurer;

14 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
15 Kyung Han Yoon;

16 3. Revoking or suspending Smog Check, Test-Only, Station License Number TC
17 229303, issued to In Shape Smog Check, Inc., doing business as In Shape Smog Check Test Only
18 Center, with Kyung Han Yoon as President;

19 4. Revoking or suspending any other licenses issued under Chapter 5 of Part 5 of
20 Division 26 of the Health & Saf. Code in the name of Kyung Han Yoon;

21 5. Revoking or suspending Smog Check Inspector License Number EO 141390, issued
22 to Kyung Han Yoon;

23 6. Ordering In Shape Smog Check, Inc., doing business as In Shape Smog Check Test
24 Only Center, and Kyung Han Yoon to pay the Bureau of Automotive Repair the reasonable costs
25 of the investigation and enforcement of this case, pursuant to Business and Professions Code
26 section 125.3; and,

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

DATED: As of Digital Signature Date

Dorais,
Patrick@DCA
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

Digitally signed by Dorais,
Patrick@DCA
Date: 2026.04.09 11:31:52
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