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7

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

10
11 In the Matter of the Accusation Against:

Case No.

79/14-137

12 **HALO HOT ROD; FLORIDALMA**
MORALES, OWNER
13 **850 E. Jefferson Blvd**
Los Angeles, Ca 90011
14

ACCUSATION

15 **Automotive Repair Dealer Registration**
No. ARD 243400
16 **Smog Check Test Only Station License**
No. TC 243400

17 **DAVID CAMACHO**
906 E. Newmark Avenue
18 **Monterey Park, CA 91755**

19 **Smog Check Inspector License**
No. EO 134615
20 **Smog Check Repair Technician License**
No. EI 134615
21

22 **MANUEL ALEJANDRO MOLINA**
MORALES
23 **116 S. Marguerita Ave**
Monterey Park, CA 91754

24 **Smog Check Inspector License No. EO**
632837
25 **Smog Check Repair Technician License No.**
EI 632837
26

27 Respondents

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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about August 14, 2006, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 243400 to Halo Hot Rod; Floridalma Morales, Owner
7 (Respondent Halo Hot Rod). The Automotive Repair Dealer Registration will expire on January
8 31, 2015, unless renewed.

9 3. On or about September 14, 2006, the Bureau of Automotive Repair issued Smog
10 Check Test Only Station License Number TC 243400 to Respondent Halo Hot Rod. The Smog
11 Check Test Only Station License will expire on January 31, 2015, unless renewed.

12 4. In 1998, the Bureau of Automotive Repair issued Advanced Emission Specialist
13 Technician License Number EA 134615 to David Camacho (Respondent Camacho). Respondent
14 Camacho's Advanced Emission Specialist Technician License was due to expire on August 31,
15 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the
16 license was renewed, pursuant to Respondent Camacho's election, as Smog Check Inspector
17 License Number EO 134615 and Smog Check Repair Technician License Number EI 134615
18 (technician licenses"), effective August 14, 2012. Respondent's technician licenses will expire on
19 August 31, 2014, unless renewed.

20 5. On or around February 7, 2011, the Bureau of Automotive Repair issued Advanced
21 Emission Specialist Technician License Number EA 632837 to Manuel Alejandro Molina Morales
22 (Respondent Morales). Respondent Morales' Advanced Emission Specialist Technician License
23 expired on December 31, 2012. Pursuant to California Code of Regulations, title 16, section
24 3340.28, subdivision (e), the license was renewed, pursuant to Respondent Morales' election, as
25 Smog Check Inspector License Number EO 632837 effective January 10, 2013 and Smog Check
26 Repair Technician License Number EI 632837 (technician licenses"), effective March 20, 2013.
27 Respondent's technician licenses will expire on December 31, 2014, unless renewed.

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1 **JURISDICTION**

2 6. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
3 the Director may revoke an automotive repair dealer registration.

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

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

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

15 **STATUTORY PROVISIONS**

16 10. Section 9884.7 of the Business and Professions Code (Code) states, in pertinent part:

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

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

26 (4) Any other conduct that constitutes fraud.

27 (b) Except as provided for in subdivision (c), if an automotive repair
28 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,

1 engaged in a course of repeated and willful violations of this chapter, or regulations
2 adopted pursuant to it.

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

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

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

14 14. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

25 15. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
26 expiration or suspension of a license by operation of law, or by order or decision of the Director of
27 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
28 Director of jurisdiction to proceed with disciplinary action.

16. Section 44072.8 of the Health and Safety Code states:

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.

1 Samsonite suit case that contained the equipment. A subsequent inspection of the suit case
2 revealed two gas tanks: one labeled 75% Argon, 25% CO2 and the other Nitrogen.

3 22. At the conclusion of the Bureau's investigation, they determined that Respondents
4 issued at least ten (10) fraudulent smog certificates of compliance via the "clean gassing" method
5 to the vehicles identified in Table No. 1 below, that were not tested in accordance with the
6 Bureau's Inspection and Maintenance Program.¹

7 **Table 1**

8

Date and Test Times	Vehicle in EIS Data (License Plate #)	Technician	Certificate Issued
6-1-2013 1202-1212	1978 Chevrolet G20 Van (5GNG042)	EO632837	XV194760C
6-1-2013 1437-1444	1989 Toyota Pickup (6R68273)	EO134615	XV194766C
6-1-2013 1507-1516	1994 Honda Accord (5WAA874)	EO134615	XV194768C
6-1-2013 1521-1527	1993 Nissan Altima (5BQN892)	EO134615	XV194769C
6-1-2013 1555-1604	1993 Chevrolet C-1500 Pickup (8Z35674)	EO134615	XV194771C
6-3-2013 1114-1124	1983 Toyota Corolla (1HOH961)	EO632837	XV194772C
6-3-2013 1137-1147	1993 Ford Explorer (5YNU661)	EO632837	XV194773C
6-3-2013 1223-1237	2003 Mitsubishi Lancer (5CGN391)	EO632837	XV194774C
6-3-2013 1504-1522	1986 Ford F-150 Pickup (2XRN241)	EO632837	XV194777C
6-3-2013 1539-1553	1988 Honda Civic CRX (4NUZ570)	EO632837	XV194778C

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26 ¹ Clean Gassing" is a term used by the Bureau to describe a situation where a gas dilution
27 system is used to alter vehicle exhaust samples being introduced into the State of California
28 Emissions Inspection Unit (EIS), thereby causing normally failing vehicles with excessive
emissions to pass the emission portion of the Smog Check test.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 23. Respondent Halo Hot Rod has subjected his registration to discipline under Code
4 section 9884.7, subdivision (a)(1), in that on June 1 and 3, 2013, he made statements which he
5 knew or which by exercise of reasonable care he should have known were untrue or misleading
6 when it issued electronic certificates of compliance for the vehicles set forth in Table 1 above,
7 certifying that those vehicles were in compliance with applicable laws and regulations when, in
8 fact, the vehicles had been clean gassed.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 24. Respondent Halo Hot Rod has subjected his registration to discipline under Code
12 section 9884.7, subdivision (a)(4), in that on June 1 and 3, 2013, he committed acts which
13 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1
14 above, without performing bona fide inspections of the emission control devices and systems on
15 those vehicles, thereby depriving the People of the State of California of the protection afforded by
16 the Motor Vehicle Inspection Program.

17 **THIRD CAUSE FOR DISCIPLINE**

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

19 25. Respondent Halo Hot Rod has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (a), in that on June 1 and 3, 2013, regarding the
21 vehicles set forth in Table 1 above, he violated sections of that Code, as follows:

22 a. **Section 44012, subdivision (a):** Respondent Halo Hot Rod failed to determine that
23 all emission control devices and systems required by law were installed and functioning correctly in
24 accordance with test procedures.

25 b. **Section 44012, subdivision (f):** Respondent Halo Hot Rod failed to perform
26 emission control tests on those vehicles in accordance with procedures prescribed by the
27 department.

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1 c. **Section 44015, subdivision (b):** Respondent Halo Hot Rod issued electronic
2 certificates of compliance without properly testing and inspecting the vehicles to determine if they
3 were in compliance with section 44012 of that Code.

4 d. **Section 44059:** Respondent Halo Hot Rod willfully made false entries for the
5 electronic certificates of compliance by certifying that those vehicles had been inspected as
6 required when, in fact, they had not.

7 **FOURTH CAUSE FOR DISCIPLINE**

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

9 26. Respondent Halo Hot Rod has subjected his station license to discipline under Health
10 and Safety Code section 44072.2, subdivision (c), in that on June 1 and 3, 2013, regarding the
11 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations, title
12 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Halo Hot Rod falsely or fraudulently
14 issued electronic certificates of compliance without performing bona fide inspections of the
15 emission control devices and systems on those vehicles as required by Health and Safety Code
16 section 44012.

17 b. **Section 3340.35, subdivision (c):** Respondent Halo Hot Rod issued electronic
18 certificates of compliance even though those vehicles had not been inspected in accordance with
19 section 3340.42 of that Code.

20 c. **Section 3340.42:** Respondent Halo Hot Rod failed to conduct the required smog tests
21 and inspections on those vehicles in accordance with the Bureau's specifications.

22 **FIFTH CAUSE FOR DISCIPLINE**

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

24 27. Respondent Halo Hot Rod subjected his station license to discipline under Health and
25 Safety Code section 44072.2, subdivision (d), in that on June 1 and 3, 2013, regarding the vehicles
26 set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby
27 another was injured by issuing electronic certificates of compliance for those vehicles without
28 performing bona fide inspections of the emission control devices and systems on those vehicles,

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

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Camacho has subjected his technician licenses to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on June 1, 2013, regarding the vehicles
7 set forth in Table 1, he violated sections of that Code, as follows:

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

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

13 c. **Section 44032:** Respondent Camacho failed to perform tests of the emission control
14 devices and systems on those vehicles in accordance with section 44012 of that Code, in that those
15 vehicles had been clean gassed.

16 d. **Section 44059:** Respondent Camacho willfully made false entries for the electronic
17 certificates of compliance by certifying that those vehicles had been inspected as required when, in
18 fact, they had not.

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 29. Respondent Camacho has subjected his technician licenses to discipline under Health
22 and Safety Code section 44072.2, subdivision (c), in that on June 1, 2013, regarding the vehicles
23 set forth in Table 1, he violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Camacho falsely or fraudulently issued
25 electronic certificates of compliance without performing bona fide inspections of the emission
26 control devices and systems on those vehicles as required by Health and Safety Code section
27 44012.

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1 c. **Section 44032:** Respondent Morales failed to perform tests of the emission control
2 devices and systems on those vehicles in accordance with section 44012 of that Code, in that those
3 vehicles had been clean gassed.

4 d. **Section 44059:** Respondent Morales willfully made false entries for the electronic
5 certificates of compliance by certifying that those vehicles had been inspected as required when, in
6 fact, they had not.

7 **TENTH CAUSE FOR DISCIPLINE**

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

9 32. Respondent Morales has subjected his technician licenses to discipline under Health
10 and Safety Code section 44072.2, subdivision (c), in that on June 1 and 3, 2013, regarding the
11 vehicles set forth in Table 1, he violated sections of the California Code of Regulations, title 16, as
12 follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Morales falsely or fraudulently issued
14 electronic certificates of compliance without performing bona fide inspections of the emission
15 control devices and systems on those vehicles as required by Health and Safety Code section
16 44012.

17 b. **Section 3340.30, subdivision (a):** Respondent Morales failed to inspect and test
18 those vehicles in accordance with Health and Safety Code section 44012.

19 c. **Section 3340.41, subdivision (c):** Respondent Morales entered false information into
20 the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering
21 vehicle emission control information for vehicles other than the vehicles being certified.

22 d. **Section 3340.42:** Respondent Morales failed to conduct the required smog tests and
23 inspections on those vehicles in accordance with the Bureau's specifications.

24 **ELEVENTH CAUSE FOR DISCIPLINE**

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

26 33. Respondent Morales has subjected his technician licenses to discipline under Health
27 and Safety Code section 44072.2, subdivision (d), in that on June 1 and 3, 2013, he committed
28 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic

1 certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide
2 inspections of the emission control devices and systems on those vehicles, thereby depriving the
3 People of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program.

5 **OTHER MATTERS**

6 34. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
7 suspend, revoke or place on probation the registration for all places of business operated in this
8 state by Floridalma Morales, owner of Halo Hot Rods, upon a finding that he has, or is, engaged in
9 a course of repeated and willful violations of the laws and regulations pertaining to an automotive
10 repair dealer.

11 35. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
12 License Number TC 243400, issued to Floridalma Morales, owner of Halo Hot Rods 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 36. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
16 No. EO 134615, or Smog Check Repair Technician License Number EI 134615, all issued to
17 Respondent Camacho is revoked or suspended, any additional license issued under this chapter in
18 the name of said licensee may be likewise revoked or suspended by the Director.

19 37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
20 No. EO 632837, or Smog Check Repair Technician License No. EI 632837, issued to Respondent
21 Morales, is revoked or suspended, any additional license issued under this chapter in the name of
22 said licensee may be likewise revoked or suspended by the Director.

23 **PRAYER**

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

26 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
27 243400, issued to Respondent Halo Hot Rod.

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1 2. Revoking or suspending Smog Check Test Only Station License Number TC 243400,
2 issued to Respondent Halo Hot Rod;

3 3. Revoking or suspending Smog Check Inspector License No. EO 134615, issued to
4 Respondent Camacho;

5 4. Revoking or suspending Smog Check Repair Technician License Number EI 134615,
6 issued to Respondent Camacho;

7 5. Revoking or suspending Smog Check Inspector License Number EO 632837, issued
8 to Respondent Morales;

9 6. Revoking or suspending Smog Check Repair Technician License Number EI 632837,
10 issued to Respondent Morales;

11 7. Ordering Respondents Halo Hot Rod, Camacho, and Morales to pay the Bureau of
12 Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant
13 to Business and Professions Code section 125.3;

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

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16
17 DATED:

June 5, 2014



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

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