

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No.: 79/17-12749

A 1 SMOG TEST ONLY
DAVID P. GREGOR, Owner
2100 Westwood Blvd.
Los Angeles, CA 90025

OAH No.: 2018071228

Automotive Repair Dealer Registration No.:
ARD 255877
Smog Check Station License No.: TC 255877

and

DAVID GREGOR
2100 Westwood Blvd.
Los Angeles, CA 90025

Mailing Address:
2434 N. Myers St.
Burbank, CA 91504-2632

Smog Check Inspector License No.: EO
131363
Smog Check Repair License No.: EI 131363

Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on JUL 23 2019.

DATED: June 12, 2019



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

12
13 In the Matter of the Accusation Against:

Case No. 79/17-12749

14 **A 1 SMOG TEST ONLY, DAVID P.**
15 **GREGOR (OWNER)**
2100 Westwood Blvd.
16 Los Angeles, CA 90025

OAH No. 2018071228

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 Automotive Repair Dealer Registration No.
ARD 255877
18 Smog Check, Test Only, Station License No.
TC 255877

19 **and**

20 **DAVID GREGOR**
2100 Westwood Blvd.
21 Los Angeles, CA 90025

22 Mailing Address:
2434 N. Myers St.
23 Burbank, CA 91504-2632

24 Smog Check Inspector License No. EO 131363
25 Smog Check Repair License No. EI 131363

26 Respondents.
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1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Brian Lee, Deputy Attorney
7 General.

8 2. Respondent David P. Gregor dba A 1 Smog Test Only and Respondent David P.
9 Gregor (Respondents) are represented in this proceeding by attorney Sarkis V. Paronyan, whose
10 address is: 500 N. Central Avenue, Suite 940, Glendale CA 91203.

11 3. On or about August 19, 2008, the Bureau issued Automotive Repair Dealer
12 Registration No. ARD 255877 David P. Gregor dba A 1 Smog Test Only ("Respondent A 1
13 Smog"). The Automotive Repair Dealer Registration was in full force and effect at all times
14 relevant to the charges brought in Accusation No. 79/17-12749, and will expire on August 31,
15 2019, unless renewed.

16 4. On or about October 1, 2008, the Bureau issued Smog Check, Test Only, Station
17 License No. TC 255877 to Respondent A 1 Smog. The Smog Check, Test Only, Station License
18 was in full force and effect at all times relevant to the charges brought in Accusation No. 79/17-
19 12749, and will expire on August 31, 2019, unless renewed.

20 5. On or about February 25, 2013, the Bureau issued STAR Certification to A 1 Smog.
21 The STAR Station Certification was in full force and effect at all times relevant to the charges
22 brought in Accusation No. 79/17-12749.

23 6. In 1996, the Bureau issued Advanced Emission Specialist License No. EA 131363 to
24 Respondent David P. Gregor ("Respondent Gregor"). Said license was renewed pursuant to
25 Respondent Gregor's election as a Smog Check Inspector (EO) License No. 131363 and Smog
26 Check Repair Technician (EI) License No. 131363, effective February 13, 2013.¹ The Smog
27 Check Inspector (EO) and Smog Check Repair Technician (EI) licenses were in full force and

28 ¹ Pursuant to California Code of Regulations, title 16 section 3340.28, subdivision (e).

1 effect at all times relevant to the charges brought herein, and will expire on April 30, 2021, unless
2 renewed.

3 **JURISDICTION**

4 7. Accusation No. 79/17-12749 was filed before the Director, and is currently pending
5 against Respondents. The Accusation and all other statutorily required documents were properly
6 served on Respondents on February 23, 2018. Respondents timely filed their Notice of Defense
7 contesting the Accusation.

8 8. A copy of Accusation No. 79/17-12749 is attached as exhibit A and incorporated
9 herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 9. Respondents have carefully read, fully discussed with counsel, and understand the
12 charges and allegations in Accusation No. 79/17-12749. Respondents have also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 10. Respondents are aware and agree that once the Stipulated Settlement and Disciplinary
16 Order becomes final pursuant to the order below, cause will exist to invalidate Respondent A 1
17 Smog's STAR Certification pursuant to California Code of Regulations Title 16, section 3392.5.1,
18 subdivision (a)(1).

19 11. Respondents are aware and agree that this stipulation allows the Department of
20 Consumer Affairs to issue the order below, which includes but is not limited to temporarily
21 invalidating A 1 Smog's STAR Certification.

22 12. Respondents are fully aware of their legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
24 the witnesses against them; the right to present evidence and to testify on their own behalf; the
25 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
26 documents; the right to reconsideration and court review of an adverse decision; and all other
27 rights accorded by the California Administrative Procedure Act and other applicable laws.

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13. Respondents are fully aware of their legal rights in any STAR Invalidation matter, including the right to written notice of STAR Invalidation, a hearing on any charges or allegations in a STAR Invalidation matter; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

14. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

15. Respondents understand and agree that the charges and allegations in Accusation No. 79/17-12749, if proven at a hearing, constitute cause for imposing discipline upon Respondent A 1 Smog's Automotive Repair Dealer Registration and Smog Check Station License and Respondent Gregor's Smog Check Inspector License and Smog Check Repair Technician License.

16. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation (although Respondents would contest them), and that Respondents hereby gives up their right to contest those charges.

17. Respondents agree that their respective registration and licenses are subject to discipline and agree to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

18. Respondents understand and agree that Respondent A 1 Smog's STAR Certification of Station License No. TC 255877 is subject to invalidation and agree to be bound by the Director's terms as set forth in the Order below.

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23. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 255877 and Smog Check, Test Only, Station License No. TC 255877, issued to Respondent A 1 Smog and Smog Check Inspector License No. EO 131363 and Smog Check Repair Technician License No. EI 131363 issued to Respondent Gregor, are revoked. However, the revocations are stayed and Respondents are placed on probation for two (2) years on the following terms and conditions.

1. **Obey All Laws.** During the period of probation, Respondents shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondents.

2. **Quarterly Reporting.** During the period of probation, Respondents shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. **Report Financial Interests.** Respondents shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondents or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

4. **Access to Examine Vehicles and Records.** Respondents shall provide BAR representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondents shall also provide BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

5. **Tolling of Probation.** If, during probation, a Respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction

1 of California, that Respondent shall notify BAR in writing within 10 days of the dates of
2 departure and return, and of the dates of cessation and resumption of business in California. All
3 provisions of probation other than cost reimbursement requirements, restitution requirements,
4 training requirements, and that Respondent obey all laws, shall be held in abeyance during any
5 period of time of 30 days or more in which the Respondent is not residing or engaging in business
6 within the jurisdiction of California. All provisions of probation shall recommence on the
7 effective date of resumption of business in California. Any period of time of 30 days or more in
8 which the Respondent is not residing or engaging in business within the jurisdiction of California
9 shall not apply to the reduction of this probationary period or to any period of actual suspension
10 not previously completed. Tolling is not available if business or work relevant to the probationary
11 license or registration is conducted or performed during the tolling period.

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

18 **7. Maintain Valid License.** Respondents shall, at all times while on probation,
19 maintain a current and active registration and/or license(s) with BAR, including any period during
20 which suspension or probation is tolled. If a Respondent's registration or license is expired at the
21 time the decision becomes effective, the registration or license must be renewed by the
22 Respondent within 30 days of that date. If a Respondent's registration or license expires during a
23 term of probation, by operation of law or otherwise, then upon renewal the Respondent's
24 registration or license shall be subject to any and all terms and conditions of probation not
25 previously satisfied. Failure to maintain a current and active registration and/or license during the
26 period of probation shall also constitute a violation of probation.

27 **8. Cost Recovery.** Respondent A 1 Smog shall pay the Bureau of Automotive Repair
28 \$13,583.24 for the reasonable costs of the investigation and enforcement of case No. 79/17-

1 12749. Respondent shall make such payment as follows: Respondent shall make such payment
2 by making monthly payments over a period of eighteen (18) months. Respondent shall make
3 seventeen (17) monthly installments of \$754.62 with a final payment (18th monthly installment)
4 of \$754.70 due no later than six (6) months prior to the termination of probation. Respondent
5 shall make payment by check or money order payable to the Bureau of Automotive Repair and
6 shall indicate on the check or money order that it is for cost recovery payment for case No. 79/17-
7 12749. Any order for payment of cost recovery shall remain in effect whether or not probation is
8 tolled. Probation shall not terminate until full cost recovery payment has been made. BAR
9 reserves the right to pursue any other lawful measures in collecting on the costs ordered and past
10 due, in addition to taking action based upon the violation of probation.

11 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
12 affected registration and/or license will be fully restored or issued without restriction, if
13 Respondent meets all current requirements for registration or licensure and has paid all
14 outstanding fees, monetary penalties, or cost recovery owed to BAR.

15 10. **License Surrender.** Following the effective date of a decision that orders a stay of
16 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
17 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
18 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
19 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
20 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
21 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
22 provided in the decision. Respondent may not petition the Director for reinstatement of the
23 surrendered registration and/or license, or apply for a new registration or license under the
24 jurisdiction of BAR at any time before the date of the originally scheduled completion of
25 probation. If Respondent applies to BAR for a registration or license at any time after that date,
26 Respondent must meet all current requirements for registration or licensure and pay all
27 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

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1 11. **Training Course.** During the first year of probation, Respondent Gregor shall attend
2 and successfully complete a sixty-eight (68) hour BAR approved training course in Engine and
3 Emission Control Fundamentals. Respondent shall provide to the Bureau proof of enrollment in
4 the course within ninety (90) days of the effective date of the decision, and proof of successful
5 course completion within one (1) year of the effective date of the decision. Failure to provide
6 proof of enrollment and/or successful course completion to the Bureau within the timeframes
7 specified shall constitute a violation of probation, and Respondent shall be prohibited from
8 issuing any certificate of compliance or noncompliance until such proof is received.

9 **IT IS HEREBY FURTHER ORDERED** that STAR Certification of Station License No.
10 TC 255877 issued to Respondent A 1 Smog is invalidated under the following terms and
11 conditions:

12 1. **Invalidation.** Respondent's STAR certification shall be temporarily invalidated for a
13 period of 90 consecutive days beginning on the effective date of the Decision and Order. During
14 the period of invalidation, Respondent shall cease advertising as a STAR station and shall cover
15 or remove all STAR signage. During the period of invalidation, Respondent shall not perform
16 any repairs under the Consumer Assistance Program.

17 2. **Automatic Reinstatement.** Upon successful completion of the 90-day invalidation,
18 Respondent's STAR Certification shall be fully restored without reapplication for STAR
19 certification.

20 3. **Violation of Order.** If Respondent violates any term or condition of this Order, then
21 the violation shall constitute cause to discipline Respondent's Smog Check Station License,
22 Automotive Repair Dealer Registration, and any other Bureau issued licenses or registrations.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sarkis V. Paronyan. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check, Test Only, Station License, STAR Station Certification, Smog Check Inspector License, and Smog Check Repair Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 5/20/19



DAVID P. GREGOR dba A 1 SMOG TEST ONLY
Respondent

DATED: 5/20/19



DAVID P. GREGOR
Respondent

I have read and fully discussed with Respondents David P. Gregor dba A 1 Smog Test Only and David P. Gregor the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 05-21-2019



SARKIS V. PARONYAN
Attorney for Respondents

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 5/21/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



BRIAN LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/17-12749

1 XAVIER BECERRA
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2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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Attorneys for Complainant

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8 **BEFORE THE**
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9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
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11 In the Matter of the Accusation Against:

Case No. **79/17-12749**

12 **A 1 SMOG TEST ONLY, DAVID P.**
13 **GREGOR (OWNER)**
2100 Westwood Blvd.
14 Los Angeles, CA 90025

OAH No.

A C C U S A T I O N

15 Automotive Repair Dealer Registration No.
ARD 255877
16 Smog Check, Test Only, Station License No.
TC 255877

17 **and**

18 **DAVID GREGOR**
2100 Westwood Blvd.
19 Los Angeles, CA 90025

20 Mailing Address:
2434 N. Myers St.
21 Burbank, CA 91504-2632

22 Smog Check Inspector License No. EO 131363
23 Smog Check Repair License No. EI 131363

24 Respondents..

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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about August 19, 2008, the Bureau issued Automotive Repair Dealer
6 Registration Number ARD 255877 to David P. Gregor ("Respondent Gregor") dba A 1 Smog
7 Test Only. The Automotive Repair Dealer Registration was in full force and effect at all times
8 relevant to the charges brought herein and will expire on August 31, 2018, unless renewed.

9 3. On or about October 1, 2008, the Bureau issued Smog Check, Test Only, Station
10 License Number TC 255877 to Respondent Gregor dba A 1 Smog Test Only. The Smog Check,
11 Test Only, Station License was in full force and effect at all times relevant to the charges brought
12 herein and will expire on August 31, 2018, unless renewed.

13 4. On or about February 25, 2013, the Bureau issued STAR Certification to A 1 Smog
14 Test Only. The STAR Station Certification was in full force and effect at all times relevant to the
15 charges brought herein and will remain active unless the ARD registration and/or the Smog
16 Check Station license issued to Respondent Gregor is revoked, cancelled, or the licenses become
17 delinquent or certification is invalidated.

18 5. In 1996, the Bureau issued Advanced Emission Specialist License No. EA 131363 to
19 Respondent Gregor. Said license was renewed pursuant to Respondent Gregor's election as a
20 Smog Check Inspector (EO) License No. 131363 and Smog Check Repair Technician (EI)
21 License No. 131363, effective February 13, 2013.¹ The Smog Check Inspector (EO) and Smog
22 Check Repair Technician (EI) licenses were in full force and effect at all times relevant to the
23 charges brought herein, and will expire on April 30, 2019, unless renewed.

24 **JURISDICTION**

25 6. This Accusation is brought before the Director of the Department of Consumer
26 Affairs (Director) for the Bureau, under the authority of the following laws.

27 _____
28 ¹ Pursuant to California Code of Regulations, title 16 section 3340.28, subdivision (e).

7. Business and Professions Code ("Bus. & Prof. 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.

STATUTORY PROVISIONS

10. Bus. & Prof. 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 refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

• • • •

(4) Any other conduct that constitutes fraud.

• • • •

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

U A S B

(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.

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1 11. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes
2 "bureau," "commission," "committee," "department," "division," "examining committee,"
3 "program," and "agency." "License" includes certificate, registration or other means to engage in
4 a business or profession regulated by the Bus. & Prof. Code.

5 12. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog
6 check stations shall be performed in accordance with procedures prescribed by the department.

7 13. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate
8 of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
9 44012.

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

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

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

15

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

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

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

20

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

24

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

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

1 **REGULATORY PROVISIONS**

2 17. California Code of Regulations ("CCR"), title 16, section 3340.24, subdivision (c),
3 states:

4 "The bureau may suspend or revoke the license of or pursue other legal action against a
5 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
6 certificate of noncompliance."

7 18. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
8 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section
9 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
10 of this article."

11 19. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
12 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any
13 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
14 this article and has all the required emission control equipment and devices installed and
15 functioning correctly."

16 20. CCR, title 16, section 3340.41, subdivision (c), states that "[n]o person shall enter
17 into the emissions inspection system any vehicle identification information or emission control
18 system identification data for any vehicle other than the one being tested. Nor shall any person
19 knowingly enter into the emissions inspection system any false information about the vehicle
20 being tested."

21 21. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
22 procedures which apply to all vehicles inspected in the State of California.

23 **COST RECOVERY**

24 22. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
25 the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case.

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1 STATEMENT OF FACTS

2 23. On March 9, 2015, the Bureau implemented a statewide regulatory change
3 requiring the use of an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model
4 year and newer gas powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under,
5 and 1998 and newer diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data
6 lists differences in Vehicle Identification Numbers (VIN) for vehicles that have received smog
7 inspections, in addition to communication protocol (the language used to communicate) and
8 Parameter ID (PID) differences with vehicles that have been certified correctly that are the same
9 make and model vehicles.

10 24. A Bureau representative initiated an investigation and reviewed OIS test data for A
11 1 Smog Test Only from January 26, 2016 through August 7, 2017. The investigation revealed
12 that the data related to certain vehicles certified by A 1 Smog Test Only contained a pattern of
13 unmistakable discrepancies between the information transmitted during the inspections and
14 documented information known about the subject vehicles. Specifically, a comparison of the data
15 received from the certified vehicles to data from vehicles of the same year, make, and model
16 determined that the data from at least four (4) of the certified vehicles contained the following
17 unmistakable discrepancies: (1) incorrect vehicle communication protocols and/or (2) incorrect
18 PID counts. Furthermore, the certified vehicles transmitted incorrect eVINs (eVINs were for
19 different vehicles). These documented discrepancies confirm that the vehicles receiving smog
20 certificates from A 1 Smog Test Only were fraudulently tested during the smog inspection using
21 the "clean plugging" method.²

22 25. Moreover, the OIS test Data showed that Smog Check technician David Gregor (EO
23 131363) performed all four (4) of the fraudulent inspections.

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25 _____
26 ² "Clean plugging" refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for
28 the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog
compliance and/or not present for testing.

26. The following chart illustrates the documented clean plugging activities of Respondents A 1 Smog Test Only and Gregor from January 26, 2016 to August 7, 2017:

Test Date	Vehicle Certified & VIN	Certificate No.	Technician License No.	OIS Test Data Details
01/26/16	2002 Honda Accord EX JHMCG66022C006384	YX178979C	EO131363 (Respondent Gregor)	Comm. Protocol: JVPW (expected: I914) PID Count: 22 (expected: 16) eVIN: Expected, but incorrectly transmitted as 1GKEC13T13R171952 ³ (a 2003 GMC Yukon)
06/10/16	2008 Audi TT Quattro 3.2 AWD ⁴ TRUDD38J381029024	ZF476948C	EO131363 (Respondent Gregor)	Comm. Protocol: ICAN11bt5 (expected: ICAN11bt5) PID Count: 48 10 (expected: 43 or 43 14) eVIN: Expected, but incorrectly transmitted as WAUSGAFXCXCN030283 ⁵ (a 2012 Audi A7 Prestige)

³ The OIS Test Data shows that a 2003 GMC Yukon, VIN 1GKEC13T13R171952, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2002 Honda Accord EX. The 2003 GMC Yukon was certified under Respondent Gregor at A 1 Smog Test Only on the same day, January 26, 2016, and the data transmitted matches that of the OIS test data for the fraudulent inspection of the 2002 Honda Accord EX.

⁴ This vehicle was previously tested on May 1, 2016. The OIS Test Detail for that test indicated the vehicle reported the correct eVIN, reported the communication protocol as ICAN11bt5, and reported a PID count of 43|14, all as expected. Then on May 3, 2017, a subsequent Smog Check test again indicated the vehicle reported the correct eVIN, reported the communication protocol as ICAN11bt5, and reported a PID count of 43|14, all as expected.

⁵ Bureau and DMV records indicate that #WAUSGAFXCXCN030283 is the permanent identification number assigned to a 2012 Audi A7 Prestige.

09/25/16	2004 Chevrolet Silverado C2500 HD ⁶ 1GCHC23U84F247466	QE450423C	EO131363 (Respondent Gregor)	Comm. Protocol: JPWM (expected: JVPW) PID Count: 23 (expected: 22) eVIN: Expected, but incorrectly transmitted as 1FMYU60E63UB17306 ⁷ (a 2003 Ford Explorer Sport)
08/07/17	2001 Audi A8 L Quattro WAUML54DX1N008059 ⁸	HD309162C	EO131363 (Respondent Gregor)	Comm. Protocol: ICAN11bt5 (expected: I914) PID Count: 43 4 (expected: 21 5) eVIN: Not expected, but incorrectly transmitted as 5NPEC4AC4BH119883 ⁹ (a 2011 Hyundai Sonata SE)

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⁶ This vehicle was subsequently tested on November 20, 2016. The OIS Test Detail for that test indicated the vehicle reported the correct eVIN, reported the communication protocol as JVPW, and reported a PID count of 22, all as expected.

⁷ The OIS Test Data shows that a 2003 Ford Explorer Sport, VIN 1FMYU60E63UB17306, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2004 Chevrolet Silverado C2500 HD. The 2003 Ford Explorer Sport was certified under Respondent Gregor at A 1 Smog Test Only on the same day, September 25, 2016, and the data transmitted matches that of the OIS test data for the fraudulent inspection of the 2004 Chevrolet Silverado C2500 HD.

⁸ This vehicle was previously tested on May 18, 2017. The OIS Test Detail for that test indicated the vehicle did not transmit the eVIN, the communication protocol was reported as I914, and the PID count was 21|5, all as expected.

⁹ The OIS Test Data shows that a 2011 Hyundai Sonata SE, VIN 5NPEC4AC4BH119883, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2001 Audi A8 L Quattro. The 2011 Hyundai Sonata SE was certified under Respondent Gregor at A 1 Smog Test Only on the same day, August 7, 2017, and the data transmitted matches that of the OIS test data for the fraudulent inspection of the 2001 Audi A8 L Quattro.

1 27. The data analysis conducted on A 1 Smog Test Only shows that Respondents
2 participated in a scheme to perform at least four (4) fraudulent Smog Check inspections resulting
3 in the issuance of four (4) fraudulent electronic Smog Check Certificates of Compliance between
4 January 26, 2016 and August 7, 2017.

5 **CAUSES FOR DISCIPLINE SUBJECTING ARD REGISTRATION TO DISCIPLINARY**

6 **ACTION:**

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 28. Respondent Gregor's Automotive Repair Dealer Registration is subject to
10 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he
11 made or authorized statements which he knew or in the exercise of reasonable care should have
12 known to be untrue or misleading, as follows: Respondent certified that the four (4) vehicles
13 identified in paragraph 26 above had passed smog inspection and were in compliance with
14 applicable laws and regulations. In fact, Respondent used clean plugging methods for the four (4)
15 vehicles identified in paragraph 26 above. Respondent substituted or used a different vehicle(s),
16 or another source, during the OBD II functional tests in order to issue smog certificates of
17 compliance for the vehicles. Respondent did not properly test or inspect any of the four (4)
18 vehicles as required by Health & Saf. Code section 44012. Complainant refers to, and by this
19 reference incorporates, the allegations contained in paragraphs 23 through 27, above, as though
20 set forth fully herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 29. Respondent Gregor's Automotive Repair Dealer Registration is subject to
24 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he
25 committed acts that constitute fraud by issuing electronic smog certificates of compliance for the
26 four (4) vehicles identified in paragraph 26 above, without performing bona fide inspections of
27 the emission control devices and systems on the vehicles, thereby depriving the People of the
28 State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
2 23 through 27, above, as though set forth fully herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Material Violation of Automotive Repair Act)**

5 30. Respondent Gregor's Automotive Repair Dealer Registration is subject to
6 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he
7 failed in a material respect to comply with the provisions of this chapter or regulations adopted
8 pursuant to it when he issued electronic certificates of compliance for the four (4) vehicles
9 identified in paragraph 26 above, without performing bona fide inspections of the emission
10 control devices and systems on those vehicles, thereby depriving the People of the State of
11 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
12 refers to, and by this reference incorporates, the allegations contained in paragraphs 23 through
13 27, above, as though set forth fully herein.

14 **CAUSES FOR DISCIPLINE SUBJECTING SMOG CHECK TEST ONLY STATION**

15 **LICENSE TO DISCIPLINARY ACTION:**

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 31. Respondent Gregor's Smog Check Test Only Station License is subject to
19 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he
20 failed to comply with the following sections of that Code:

21 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
22 performed on the four (4) vehicles identified in paragraph 26 above, in accordance with
23 procedures prescribed by the department.

24 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the
25 four (4) vehicles identified in paragraph 26 above, without ensuring that the vehicles were
26 properly tested and inspected to determine if they were in compliance with Health & Saf. Code
27 section 44012.

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1 Complainant refers to, and by this reference incorporates, the allegations contained in
2 paragraphs 23 through 27, above, as though set forth fully herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant**
5 **to the Motor Vehicle Inspection Program)**

6 32. Respondent Gregor's Smog Check Test Only Station License is subject to
7 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he
8 failed to comply with provisions of California Code of Regulations, title 16, as follows:

9 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
10 electronic smog certificates of compliance for the four (4) vehicles identified in paragraph 26
11 above.

12 b. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
13 compliance for the four (4) vehicles identified in paragraph 26 above, even though the vehicles
14 had not been inspected in accordance with section 3340.42.

15 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
16 into the emissions inspection system for the four (4) vehicles identified in paragraph 26 above.

17 d. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
18 conducted on the four (4) vehicles identified in paragraph 26 above, in accordance with the
19 Bureau's specifications.

20 Complainant refers to, and by this reference incorporates, the allegations contained in
21 paragraphs 23 through 27, above, as though set forth fully herein.

22 **SIXTH CAUSE FOR DISCIPLINE**

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

24 33. Respondent Gregor's Smog Check Test Only Station License is subject to
25 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that he
26 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing
27 electronic smog certificates of compliance for the four (4) vehicles identified in paragraph 26
28 above, without performing bona fide inspections of the emission control devices and systems on

1 the vehicles, thereby depriving the People of the State of California of the protection afforded by
2 the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates,
3 the allegations contained in paragraphs 23 through 27, above, as though set forth fully herein.

4 **CAUSES FOR DISCIPLINE SUBJECTING SMOG CHECK INSPECTOR LICENSE**
5 **AND SMOG CHECK REPAIR TECHNICIAN LICENSE TO DISCIPLINARY ACTION:**

6 **SEVENTH CAUSE FOR DISCIPLINE**

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

8 34. Respondent Gregor's Smog Check Inspector License and Smog Check Repair
9 Technician License are subject to disciplinary action pursuant to Health & Saf. Code section
10 44072.2, subdivision (a), in that he failed to comply with section 44012 of that Code in a material
11 respect, as follows: Respondent failed to perform the emission control tests on the four (4)
12 vehicles identified in paragraph 26 above, in accordance with procedures prescribed by the
13 department. Complainant refers to, and by this reference incorporates, the allegations contained
14 in paragraphs 23 through 27, above, as though set forth fully herein.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant**
17 **to the Motor Vehicle Inspection Program)**

18 35. Respondent Gregor's Smog Check Inspector License and Smog Check Repair
19 Technician License are subject to disciplinary action pursuant to Health & Saf. Code section
20 44072.2, subdivision (c), in that he failed to comply with provisions of California Code of
21 Regulations, title 16, as follows:

22 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
23 electronic smog certificates of compliance for the four (4) vehicles identified in paragraph 26
24 above.

25 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the four (4)
26 vehicles identified in paragraph 26 above, in accordance with Health & Saf. Code sections 44012
27 and 44035, and California Code of Regulations, title 16, section 3340.42.

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1 c. Section 3340.41, subdivision (c): Respondent knowingly entered false information
2 into the emissions inspection system for the four (4) vehicles identified in paragraph 26 above.

3 d. Section 3340.42: Respondent failed to conduct the required smog tests on the four
4 (4) vehicles identified in paragraph 26 above, in accordance with the Bureau's specifications.

5 Complainant refers to, and by this reference incorporates, the allegations contained in
6 paragraphs 23 through 27, above, as though set forth fully herein.

7 **NINTH CAUSE FOR DISCIPLINE**

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

9 36. Respondent Gregor's Smog Check Inspector License and Smog Check Repair
10 Technician License are subject to disciplinary action pursuant to Health & Saf. Code section
11 44072.2, subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby
12 another was injured by issuing electronic smog certificates of compliance for the four (4) vehicles
13 identified in paragraph 26 above, without performing bona fide inspections of the emission
14 control devices and systems on the vehicles, thereby depriving the People of the State of
15 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
16 refers to, and by this reference incorporates, the allegations contained in paragraphs 23 through
17 27, above, as though set forth fully herein.

18 **OTHER MATTERS**

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

23 38. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
24 License No. TC 255877, issued to Respondent Gregor is revoked or suspended following a
25 hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and
26 Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

27 39. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
28 No. EO 131363 and/or Smog Check Repair License No. EI 131363 issued to Respondent Gregor

1 is revoked or suspended following a hearing, any additional license issued under Chapter 5 of
2 Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
3 revoked or suspended by the Director.

4 **PRAYER**

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

7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
8 255877 issued to David P. Gregor dba A 1 Smog Test Only;

9 2. Revoking or suspending any other automotive repair dealer registration issued to
10 David P. Gregor;

11 3. Revoking or suspending Smog Check Test Only Station License No. TC 255877,
12 issued to David P. Gregor dba A 1 Smog Test Only;

13 4. Revoking or suspending Smog Check Inspector License No. EO 131363, issued to
14 David Gregor;

15 5. Revoking or suspending Smog Check Repair License No. EI 131363, issued to David
16 Gregor;

17 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
18 Division 26 of the Health and Safety Code in the name of David Gregor;

19 7. Ordering Respondent David P. Gregor to pay the Bureau the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3; and

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

DATED: February 2, 2018 Patrick Dorais

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

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