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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:

13 **KEN DAVIS SMOG**
14 **KENNETH RAY DAVIS, OWNER**
6160 SEBASTOPOL AVENUE
SEBASTOPOL, CA 95472

15 **AUTOMOTIVE REPAIR DEALER REGISTRATION**
16 **No. ARD 259789**
SMOG CHECK TEST ONLY STATION LICENSE NO.
17 **TC 259789**

18 AND

19 **KENNETH RAY DAVIS**
20 **P. O. BOX 676**
GRATON, CA 95444

21 **ADVANCED EMISSIONS SPECIALIST TECHNICIAN**
22 **LICENSE NO. EA 140329**

23 Respondent.

Case No.

79/15-49

ACCUSATION

(SMOG CHECK)

24 Complainant alleges:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
27 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.
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1 **REGULATORY PROVISIONS**

2 14. California Code of Regulations, title 16, section 3340.28, subdivision (e), states:

3 Upon renewal of an unexpired Basic Area Technician license or an Advanced
4 Emission Specialist Technician license issued prior to the effective date of this
5 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check
6 Repair Technician, or both.

7 15. California Code of Regulations, title 16, section 3340.30, subdivision (d), states:

8 The bureau may suspend or revoke the license of or pursue other legal action
9 against a licensee that fails to complete retraining when required by the department,
10 pursuant to section 44045.6 of the Health and Safety Code.

11 **COST RECOVERY**

12 16. Code section 125.3 provides, in part, that a Board may request the administrative law
13 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
14 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Citation)**

17 17. Respondent KDS's registration and license are subject to discipline because it failed
18 to comply with an order by the Bureau to pay an administrative fine issued. (Health & Saf. Code,
19 § 44050, subd. (e).)

20 18. On or about October 4, 2011, the Bureau issued Citation No. C2012-0250 to
21 Respondent KDS against its registration and station license for failing to perform a
22 visual/functional check of emission control devices. (Health & Saf. Code, § 44012, subd. (f).)
23 The citation assessed a civil penalty of \$1,500.00. Respondent KDS did not appeal the citation or
24 pay the civil penalty within 30 days of receipt of the citation.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Citation)**

27 19. Respondent Davis's technician license is subject to discipline because he failed to
28 comply with an order by the Bureau to complete a remedial training course. (Health & Saf. Code,
§ 44050, subd. (c), and Cal. Code of Regs., tit. 16, § 3340.30, subd. (d).)

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1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 259789, issued to Ken Davis Smog, Kenneth Ray Davis, Owner;
2. Revoking or suspending Smog Check Test Only Station License Number TC 259789, issued to Ken Davis Smog, Kenneth Ray Davis, Owner;
3. Revoking or suspending Advanced Emissions Specialist Technician License Number EA 140329, issued to Kenneth Ray Davis;
7. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kenneth Ray Davis;
8. Ordering Ken Davis Smog, Kenneth Ray Davis, Owner, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
9. Taking such other and further action as deemed necessary and proper.

DATED: October 2, 2014



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