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

10 In the Matter of the Accusation Against:

11 **BUDDY TEST ONLY;**
12 **CARMEN SECOFF, Owner**
13 **14591 Andel Drive**
Fontana, CA 92335

14 **9027 Bellegrave Avenue**
15 **Riverside, CA 92509**

16 **Automotive Repair Dealer Registration No.**
ARD 271490
17 **Smog Check, Test Only, Station License No.**
TC 271490

18 and

19 **GEORGE A. SECOFF**
20 **9027 Bellegrave Avenue**
Riverside, CA 92509

21 **Smog Check Inspector License No. EO 630834**
22 **Smog Check Repair Technician License No.**
23 **EI 630834 (formerly Advanced Emission**
Specialist Technician No. EA 630834)

24 Respondents.

Case No.

79/16-78

A C C U S A T I O N

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 January 17, 2013, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration No. ARD 271490 to Buddy Test Only with Carmen Secoff as the
7 owner (“Respondent Buddy Test Only.”) The Automotive Repair Dealer Registration was in full
8 force and effect at all times relevant to the charges brought herein, expired on January 31, 2016,
9 and has not been renewed.

10 3. On or about February 28, 2013, the Bureau of Automotive Repair issued Smog
11 Check, Test Only, Station License No. TC 271490 to Respondent Buddy Test Only. The Smog
12 Check, Test Only, Station License was in full force and effect at all times relevant to the charges
13 brought herein, expired on January 31, 2016, and has not been renewed.

14 4. On or about February 18, 2009, the Bureau of Automotive Repair issued Advanced
15 Emission Specialist Technician License No. EA 630834 to George A. Secoff (“Respondent
16 Secoff.”) Respondent Secoff’s Technician License expired on July 31, 2013, and was cancelled on
17 August 26, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,
18 subdivision (e), the license was renewed effective August 26, 2013, pursuant to Respondent
19 Secoff’s election, as Smog Check Inspector License No. EO 630834 and Smog Check Repair
20 Technician License No. EI 630834 (“Technician Licenses.”) Respondent Secoff’s Technician
21 Licenses were in full force and effect at all times relevant to the charges brought herein,
22 Respondent Secoff’s Smog Check Inspector License will expire on July 31, 2017, unless renewed,
23 and Respondent’s Secoff’s Smog Check Repair Technician License expired on July 31, 2015.

24 **JURISDICTION**

25 5. This Accusation is brought before the Director of the Department of Consumer
26 Affairs (“Director”) for the Bureau of Automotive Repair (“Bureau”), under the authority of the
27 following laws.

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

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5 (4) Any other conduct that constitutes fraud.

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7 (6) Failure in any material respect to comply with the provisions of this chapter
8 [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations
9 adopted pursuant to it.

10 12. Health and Safety Code section 44012 states, in pertinent part:

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

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

26

27 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
28 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
mode or loaded mode are tested in accordance with procedures prescribed by the
department. In determining how loaded mode and evaporative emissions testing shall
be conducted, the department shall ensure that the emission reduction targets for the
enhanced program are met.

13. Health and Safety Code Section 44015 states, in pertinent part:

(b) If a vehicle meets the requirements of Section 44012, a smog check station
licensed to issue certificates shall issue a certificate of compliance or a certificate of
noncompliance.

14. Health and Safety Code Section 44032 states, in pertinent part:

No person shall perform, for compensation, tests or repairs of emission control devices or
systems of motor vehicles required by this chapter unless the person performing the test or
repair is a qualified smog check technician and the test or repair is performed at a licensed

1 smog check station. Qualified technicians shall perform tests of emission control devices
and systems in accordance with Section 44012.

2 15. Health and Safety Code Section 44050, subdivision (e), states that the failure of a
3 licensee to comply with an order of abatement or administrative fine in a citation is grounds for
4 suspension, revocation, or probation.

5 16. Health and Safety Code Section 44059 states:

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

9 17. Health and Safety Code section 44072.2 states:

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

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

14

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

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

17

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

20 18. Health and Safety Code section 44072.8 states:

21 When a license has been revoked or suspended following a hearing under this article,
22 any additional license issued under this chapter in the name of the licensee may be
likewise revoked or suspended by the director.

23 **COST RECOVERY**

24 19. Section 125.3 states, in pertinent part, that the Bureau may request the administrative
25 law judge to direct a licensee found to have committed a violation or violations of the licensing
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
27 case.

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1 **REGULATORY PROVISIONS**

2 20. California Code of Regulations, title 16, section 3340.24, subdivision (c), provides that
3 “[t]he bureau may suspend or revoke the license of or pursue other legal action against a licensee,
4 if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of
5 noncompliance.”

6 21. California Code of Regulations, title 16, section 3340.30, subdivision (a), provides in
7 pertinent part that: “[a] licensed technician shall inspect, test and repair vehicles in accordance with
8 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and
9 section 3340.42 of this article.”

10 22. California Code of Regulations, title 16, section 3340.35, subdivision (c), provides, in
11 pertinent part, that : “[a] licensed station shall issue a certificate of compliance or noncompliance
12 to the owner or operator of any vehicle that has been inspected in accordance with the procedures
13 specified in section 3340.42 of this article and has all the required emission control equipment and
14 devices installed and functioning correctly. The following conditions shall apply:

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

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

18 23. California Code of Regulations, title 16, section 3340.41, subdivision (c), provides
19 that: “[n]o person shall enter into the emissions inspection system any vehicle identification
20 information or emission control system identification data for any vehicle other than the one being
21 tested. Nor shall any person knowingly enter into the emissions inspection system any false
22 information about the vehicle being tested.”

23 **VIDEO SURVEILLANCE OPERATION**

24 24. On March 18, 2015, and April 1, 2015, Bureau representatives conducted a video
25 surveillance operation of Respondent Buddy Test Only’s smog check facility. On March 18, 2015,
26 one video camera was used. On April 1, 2015, two cameras were used. The cameras had a clear
27 view of all vehicles entering and exiting the parking lot and all vehicles could be seen driving in and
28 out of the area of Respondent Buddy Test Only’s single smog testing bay.

1 25. The surveillance operation and information obtained from the BAR's Vehicle
2 Information Database ("VID")² revealed that Respondent Buddy Test Only, through the actions of
3 Respondent Secoff, performed six smog inspections that resulted in the issuance of six electronic
4 certificates of compliance for the vehicles set forth in the below table. The electronic certificates
5 of compliance certified that Respondent Buddy Test Only and Respondent Secoff (collectively,
6 "Respondents") had tested and inspected those vehicles and that the vehicles were in compliance
7 with applicable laws and regulations. In fact, Respondents performed the smog inspections using
8 the clean piping³ method by utilizing the tail pipe emissions of vehicles that were not being
9 certified in order to issue the electronic certificates of compliance.

10 26. On March 18, 2015, Respondents used a white minivan in place of a 1983 Chevrolet
11 Monte Carlo. During the period when the vehicle was being tested, no 1983 Chevrolet Monte
12 Carlo drove into or exited Respondent Buddy Test Only's smog testing bay. The specific vehicle
13 fraudulently certified by Respondents on March 18, 2015, is set forth in the below table.

14 27. On April 1, 2014, Respondents used a light colored four door sedan to certify five
15 different vehicles' compliance with Bureau rules and regulations. In fact, between 14:54 and
16 17:11 hours, the light colored four door sedan entered the testing bay, and Respondents performed
17 three of the five fraudulent certifications without ever removing the light colored four door sedan
18 from Respondents' single testing bay. The five specific vehicles fraudulently certified by
19 Respondents on April 1, 2014, are set forth in the below table.

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25 ² The VID reveals a variety of information concerning each test conducted at Respondent
26 Buddy Test Only, including the name and license number of the technician or inspector who
conducted each test, the date of the test, and the start and end times of each test.

27 ³ Pursuant to California Code of Regulations, title 16, section 3340.1, "clean piping" means
28 the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to issue a
certificate of compliance for another vehicle.

Test Date	Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested	Certificate Issued
3/18/15	13:22-13:27	1983 Chevrolet Monte Carlo (6HKX840)	White minivan	YP533452C
4/1/15	09:24-09:37	1976 Volkswagon Bus (4KXF172)	Light colored four door sedan	YP678045C
4/1/15	12:27-12:42	1989 Ford Ranger (5D01064)	Light colored four door sedan	YP678046C
4/1/15	14:54-15:04	1998 Plymouth Voyager (4AVT029)	Light colored four door sedan	YP678047C
4/1/15	15:13-15:21	1996 Honda Accord (5NYH874)	Light colored four door sedan	YP678048C
4/1/15	16:58-17:11	1989 Honda Accord (5XVC924)	Light colored four door sedan	YP678049C

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

28. Respondent Buddy Test Only's automotive repair dealer registration is subject to discipline pursuant to section 9884.7, subdivision (a)(1), in that on or about March 18, 2015, and April 1, 2015, Respondent Buddy Test Only made statements which it knew or which by exercise of reasonable care it should have known to be untrue or misleading, as follows: Respondent Buddy Test Only's smog check inspector, Respondent Secoff, certified that the vehicles identified in the table following paragraph 27 above had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Secoff used the clean piping method in order to issue certificates for those vehicles and did not test or inspect the vehicles as required by Health and Safety Code § 44012. Complainant refers to, and by this reference incorporates, the information contained in paragraphs 24 through 27, and the above table, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

29. Respondent Buddy Test Only's automotive repair dealer registration is subject to discipline pursuant to section 9884.7, subdivision (a)(4), in that on or about March 18, 2015, and April 1, 2015, Respondent Buddy Test Only committed acts constituting fraud by issuing

1 certificates of compliance for vehicles it did not inspect. Respondent Buddy Test Only issued
2 certificates of compliance to the vehicles identified in the table following paragraph 27 above
3 without performing a bona fide inspection of the emission control devices and systems on the
4 vehicles, thereby depriving the People of the State of California of the protection afforded by the
5 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
6 information contained in paragraphs 24 through 27, and the above table, as though set forth fully.

7 **THIRD CAUSE FOR DISCIPLINE**

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

9 30. Respondent Buddy Test Only's smog check station license is subject to discipline
10 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about March
11 18, 2015, and April 1, 2015, Respondent Buddy Test Only failed to comply with the following
12 sections of the Health & Safety Code:

13 a. **Section 44012:** Respondent Buddy Test Only failed to perform the emission control
14 tests on the vehicles identified in the table following paragraph 27 above in accordance with
15 procedures prescribed by the department.

16 b. **Section 44015:** Respondent Buddy Test Only issued electronic certificates of
17 compliance for the vehicles identified in the table following paragraph 27 above without properly
18 inspecting the vehicles to determine if they were in compliance with Health & Safety Code section
19 44012.

20 c. **Section 44059:** Respondent Buddy Test Only, through its inspector Respondent
21 Secoff, willfully made false entries in the EIS, resulting in the issuance of fraudulent certificates of
22 compliance for the vehicles identified in the table following paragraph 27 above.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Adopted
Pursuant to the Motor Vehicle Inspection Program)**

25 31. Respondent Buddy Test Only's smog check station license is subject to discipline
26 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about March
27 18, 2015, and April 1, 2015, Respondent Buddy Test Only failed to comply with provisions of
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1 California Code of Regulations, title 16, for the vehicles identified in the table following paragraph
2 27 above, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Buddy Test Only, through its
4 inspector Respondent Secoff, falsely or fraudulently issued electronic smog certificates of
5 compliance for the vehicles identified the table following paragraph 27 above.

6 b. **Section 3340.35, subdivision (c):** Respondent Buddy Test Only, through its
7 inspector Respondent Secoff, issued electronic smog certificates of compliance for the vehicles
8 identified in the table following paragraph 27 above even though the vehicles had not been
9 inspected in accordance with section 3340.42.

10 c. **Section 3340.41, subdivision (c):** Respondent Buddy Test Only authorized or
11 permitted its smog check inspector, Respondent Secoff, to enter false information into the EIS by
12 entering vehicle identification information or emission control system identification data for
13 vehicles other than the ones being tested.

14 **FIFTH CAUSE FOR DISCIPLINE**

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

16 32. Respondent Buddy Test Only's smog check station license is subject to discipline
17 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about March
18 18, 2015, and April 1, 2015, Respondent Buddy Test Only committed dishonest, fraudulent or
19 deceitful acts whereby another was injured by issuing electronic certificates of compliance for the
20 vehicles identified in the table following paragraph 27 above without performing bona fide
21 inspections of the emission control devices and systems on the vehicles, thereby depriving the
22 People of the State of California of the protection afforded by the Motor Vehicle Inspection
23 Program. Complainant refers to, and by this reference incorporates, the information contained in
24 the table paragraphs 24 through 27, and the above table, as though set forth fully.

25 **SIXTH CAUSE FOR DISCIPLINE**

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

27 33. Respondent Secoff's Technician Licenses are subject to discipline pursuant to
28 Health and Safety Code section 44072.2, subdivision (a), and Health and Safety Code section

1 44032 in that on or about March 18, 2015, and April 1, 2015, Respondent Secoff violated the
2 following sections of the Health and Safety Code:

3 a. **Section 44012:** Respondent Secoff failed to perform the emission control tests on the
4 vehicles identified in the table following paragraph 27 above in accordance with procedures
5 prescribed by the department.

6 b. **Section 44015:** Respondent Secoff issued electronic certificates of compliance for the
7 vehicles identified in the table following paragraph 27 above without properly inspecting the
8 vehicles to determine if they were in compliance with Health & Safety Code section 44012.

9 c. **Section 44059:** Respondent Secoff willfully made false entries in the EIS, resulting in
10 the issuance of fraudulent certificates of compliance for the vehicles identified in the table
11 following paragraph 27 above.

12 **SEVENTH CAUSE FOR DISCIPLINE**
13 **(Failure to Comply with Regulations Adopted**
14 **Pursuant to the Motor Vehicle Inspection Program)**

14 34. Respondent Secoff's Technician Licenses are subject to discipline pursuant to
15 Health, and Safety Code section 44072.2, subdivision (c), in that on or about March 18, 2015, and
16 April 1, 2015, Respondent Secoff violated the following sections of the California Code of
17 Regulations, title 16:

18 a. **Section 3340.24, subdivision (c):** Respondent Secoff falsely or fraudulently issued
19 electronic smog certificates of compliance for the vehicles identified in the table following
20 paragraph 27 above.

21 b. **Section 3340.35, subdivision (c):** Respondent Secoff issued electronic smog
22 certificates of compliance for the vehicles identified in the table following paragraph 27 above even
23 though the vehicles had not been inspected in accordance with section 3340.42.

24 c. **Section 3340.41, subdivision (c):** Respondent Secoff entered false information into
25 the EIS by entering vehicle identification information or emission control system identification data
26 for vehicles other than the ones being tested.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 35. Respondent Secoff's Technician Licenses are subject to discipline pursuant to
4 Health and Safety Code section 44072.2, subdivision (d), in that on or about March 18, 2015, and
5 April 1, 2015, Respondent Secoff committed acts involving dishonesty, fraud or deceit whereby
6 another was injured by issuing electronic certificate of compliance for the vehicles identified in the
7 table following paragraph 27 above without performing bona fide inspections of the emission
8 control devices and systems on the vehicles, thereby depriving the People of the State of California
9 of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and
10 by this reference incorporates, the information contained in paragraphs 24 through 27, and the
11 above table, as though set forth fully.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Failure to Pay Citation)**

14 36. Respondent Secoff's Technician Licenses are subject to discipline pursuant to
15 Health and Safety Code section 44050, subdivision (e), in that he failed to comply with a citation.
16 On or about August 30, 2010, the Bureau issued Citation No. C2011-0227, with a \$1,000.00
17 administrative fine, against automotive repair dealer registration No. ARD 259333 and smog
18 check, test only, station license No. TC 259333 held by Buddy Test Only, with George A. Secoff
19 as the owner for violating Health and Safety Code section 44012, subdivision (f), (failure to
20 visually and functionally inspect required emission control devices) and California Code of
21 Regulations, title 16, section 3340.35, subdivision (c) (certificates of compliance may only be
22 issued to vehicles inspected in accordance with proper procedures). The citation has not been
23 paid. Both Respondent Secoff's automotive repair dealer registration and smog check, test only,
24 station license, have expired and are cancelled.

25 **DISCIPLINE CONSIDERATION**

26 37. To determine the degree of discipline, if any, to be imposed on Respondent Secoff,
27 Complainant alleges the following:
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1 a. On or about August 30, 2010, the Bureau issued Citation No. M2011-0228 against
2 Respondent Secoff for violating Health and Safety Code section 44032 (qualified technicians shall
3 perform tests of emission control systems and devices in accordance with section 44012 of the
4 Health and Safety Code) and California Code of Regulations, title 16, section 3340.30, subdivision
5 (a) (qualified technicians shall inspect, test and repair vehicles in accordance with Health and
6 Safety Code sections 44012 and 44035 as well as California Code of Regulations, title 16, section
7 3340.42). Respondent Secoff was required to attend an 8-hour training course. On or about
8 October 20, 2010, Respondent Secoff completed the required training course.

9 **OTHER MATTERS**

10 38. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
11 Director may suspend, revoke or place on probation the registration for all places of business
12 operated in this state by Carmen Secoff, owner of Buddy Test Only, upon a finding that
13 Respondent Buddy Test Only has, or is, engaged in a course of repeated and willful violations of
14 the laws and regulations pertaining to an automotive repair dealer.

15 39. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
16 License Number TC 271490, issued to Buddy Test Only with Carmen Secoff as the owner, is
17 revoked or suspended, any additional license issued under this chapter in the name of said licensee
18 may be likewise revoked or suspended by the Director.

19 40. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
20 No. EO 630834 and/or Smog Check Repair Technician License No. EI 630834, issued to George
21 A. Secoff, are revoked or suspended, any additional license issued under this chapter in the name
22 of 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 271490, issued to Buddy Test Only with Carmen Secoff as the owner;

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- 1 2. Revoking or suspending any other automotive repair dealer registration issued to
- 2 Carmen Secoff;
- 3 3. Revoking or suspending Smog Check, Test Only, Station License Number TC
- 4 271490, issued to Buddy Test Only with Carmen Secoff as the owner;
- 5 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 6 and Safety Code in the name of Carmen Secoff;
- 7 5. Revoking or suspending Smog Check Inspector License No. EO 630834 issued to
- 8 George A. Secoff;
- 9 6. Revoking or suspending Smog Check Repair Technician License No. EI 630834
- 10 issued to George A. Secoff;
- 11 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 12 and Safety Code in the name of George A. Secoff;
- 13 8. Ordering Buddy Test Only, with Carmen Secoff as the owner, and George A. Secoff
- 14 to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement
- 15 of this case, pursuant to Business and Professions Code section 125.3; and,
- 16 9. Taking such other and further action as deemed necessary and proper.

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20 DATED: March 3, 2016


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

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