

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 CHRISTINE J. LEE
Deputy Attorney General
4 State Bar No. 282502
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2539
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
9 **STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:
12 **G & G SMOGS; RANDY D. EVANS**
4202 W. El Segundo Blvd
Hawthorne, CA 90250
13
14 **Automotive Repair Dealer Registration No.**
ARD 272720
15 **Smog Check, Test Only, Station License No.**
TC 272720
16
17 **RANDY DESHUWN EVANS**
216 East 108th Street
Los Angeles, CA 90061
18
19 **Smog Check Inspector License EO635886**
20 Respondent.

Case No. 79/16-20

ACCUSATION
smog check

21 Complainant alleges:

22 **PARTIES**

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

25 **Automotive Repair Dealer Registration No. ARD 272720**

26 2. On or about April 26, 2013, the Bureau of Automotive Repair issued Automotive
27 Repair Dealer Registration Number ARD 272720 to G & G Smogs; Randy D. Evans

28 ///

1 (Respondent). The Automotive Repair Dealer Registration expired on April 30, 2015, and has
2 not been renewed.

3 **Smog Check Test Only Station License No. TC 272720**

4 3. On or about June 21, 2013, the Bureau of Automotive Repair issued Smog Check,
5 Test Only, Station License Number TC 272720 to G & G Smogs; Randy D. Evans (Respondents).
6 The Smog Check, Test Only, Station License expired on April 30, 2015, and has not been
7 renewed.

8 **Smog Check Inspector License No. EO 636048**

9 4. On or about August 14, 2013, the Bureau of Automotive Repair issued Smog Check
10 Inspector License Number EO 635886 (inspector license) to Randy Deshuwn Evans (Respondent
11 Evans). The Smog Check Inspector License was in full force and effect at all times relevant to the
12 charges brought herein and will expire on December 31, 2015, unless renewed.¹

13 **JURISDICTION**

14 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
15 Bureau of Automotive Repair.

16 6. Section 9884.7 of the Business and Professions Code ("Code") provides that the
17 Director may revoke an automotive repair dealer registration.

18 7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
19 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
20 against an automotive repair dealer or to render a decision invalidating a registration temporarily
21 or permanently.

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

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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

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

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

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

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

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

14
15 13. Section 17200 of the Business and Professions Codes states:

16 As used in this chapter, unfair competition shall mean and include any unlawful, unfair or
17 fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any
18 act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the
19 Business and Professions Code.

20 **REGULATORY PROVISIONS**

21 14. California Code of Regulations, title 16, section 3340.35(a)(2) states:

22 Licensed station shall purchase certificates of compliance and noncompliance from the
23 bureau or an authorized agent of the bureau only, and under the following terms and conditions:
24 (1) A certificate of compliance or noncompliance shall be purchased by a licensed station for a fee
25 determined pursuant to section 3340.35.1 of these regulations; and
26 (2) Full payment is required at the time the certificates are ordered.

27 **COST RECOVERY/RESTITUTION**

28 15. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 16. Government Code section 11519, subdivision (d), provides in pertinent part that the
4 Registrar may require restitution of damages suffered as a condition of probation in the event
5 probation is ordered.

6 **FACTUAL BACKGROUND**

7 17. On or about January 10, 2014, the Bureau received a fax from SGS (SGS Testcom,
8 Inc.), the Bureau's designated contractor requesting updated ACH (Account Clearing House)
9 banking information and a voided check from the referenced account.

10 18. The form designated Respondent's Smog Station License No, and listed Respondent
11 as the "Billing Contact Name." It also listed Chase Bank as the bank and had the same bank transit
12 number and checking account number that was printed on the voided check. The "Authorization"
13 section of the form had Respondent listed as the "owner" and his signature as the person
14 authorizing the account.

15 19. On or about March 17, 2014, the Bureau received notification from Chase Bank
16 through SGS that charges related to the purchase of Smog Check certificate packages between
17 January 14, 2014 and March 10, 2014 from the same checking account had been reversed.
18 Respondent had issued all of the certificates in twenty four packages and several more from a
19 twenty fifth certificate package. Respondent collected \$8.25, the State mandated fee from those
20 customers who purchase the certificates, and by statute, owed the State of California, the Bureau
21 for those fees.

22 20. On or about May 5, 2014, the Bureau signed a letter drafted to outline the agreed
23 upon repayment schedule that had been negotiated. The Bureau and Respondent arranged a
24 payment plan. Respondent would make thirty one monthly payments of \$412.50 due on the first of
25 the month. The final payment of \$462.50 was due on or before January 1, 2017. Along with a
26 payment plan, Respondent agreed to repay the Bureau for the unpaid certificates he had already
27 received and would place Respondent on a pay-as-you-go program for receiving future certificate
28 packages pursuant to this repayment plan being adhered to.

1 doing business as G & G Smogs, upon a finding that he has, or is, engaged in a course of repeated
2 and willful violation of the laws and regulations pertaining to an automotive repair dealer.

3 26. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
4 Station License Number TC 272720, issued to Randy D. Evans, doing business as G & G Smog, is
5 revoked or suspended, any additional license issued under this chapter in the name of said licensee
6 may be likewise revoked or suspended by the director.

7 27. Pursuant to Health and Safety Code section 44072.8, if Randy D. Evans technician
8 license, currently designated as EO 635886 is revoked or suspended, any additional license issued
9 under this chapter in the name of said licensee may be likewise revoked or suspended by the
10 Director.

11 **PRAYER**

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

- 14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
15 272720, issued to G & G Smogs; Randy D. Evans;
- 16 2. Revoking or suspending Smog Check, Test Only, Station License Number TC
17 272720, issued to G & G Smogs; Randy D. Evans;
- 18 3. Revoking or suspending any additional license issued under Chapter 5 of the Health
19 and Safety Code in the name of Randy D. Evans;
- 20 4. Revoking or suspending Randy Deshuwn Evans' smog technician license EO 635886;
- 21 5. Ordering Randy D. Evans to pay the Bureau of Automotive Repair the reasonable
22 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3;
- 24 6. Ordering Restitution in the amount of \$13,212.50; and,

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 8/26/15

Patrick Dorais by Doug Balatti
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant
DUG BALATTI
ASST. CHIEF

LA2015501098
51817770.doc