

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KAREN R. DENVER  
Deputy Attorney General  
4 State Bar No. 197268  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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:

Case No. 79/15-88

13 **SMOGTECH McHENRY**  
**HELI VILLASENOR, OWNER**  
14 **1313 McHenry Avenue**  
**Modesto, CA 95350**

**A C C U S A T I O N**

(Smog Check)

15 **Automotive Repair Dealer Reg. No. ARD 268112**  
16 **Smog Check, Test Only, Station License No. TC 268112,**

17 **CHARTER WAY SMOG**  
**HELI VILLASENOR, OWNER**  
18 **1449 Turnpike, Suite A**  
**Stockton, CA 95206**

19 **Automotive Repair Dealer Reg. No. ARD 265170**  
20 **Smog Check, Test Only, Station License No. TC 265170,**

21 **SMOGTECH AIRPORT**  
**HELI VILLASENOR, OWNER**  
22 **430 N. Airport Way, #A**  
**Stockton, CA 95205**

23 **Automotive Repair Dealer Reg. No. ARD 269777**  
24 **Smog Check, Repair, Station License No. RC 269777,**

25 **SMOG TECH 2**  
**HELI VILLASENOR, OWNER**  
26 **7277 N. Pacific Avenue, #2**  
**Stockton, CA 95207**

27 **Automotive Repair Dealer Reg. No. ARD 267654**  
28 **Smog Check, Test Only, Station License No. TC 267654,**

1 **SMOGTECH TRACY**  
2 **HELI VILLASENOR, OWNER**  
3 **24588 S. MacArthur Drive**  
4 **Tracy, CA 95376**

5 **Automotive Repair Dealer Reg. No. ARD 275318**  
6 **Smog Check, Test Only, Station License No. TC 275318,**

7 **and**

8 **HELI VILLASENOR**  
9 **1449 Turnpike Road**  
10 **Stockton, CA 95206**

11 **Smog Check Inspector License No. EO 630941**  
12 **Smog Check Repair Technician License No. EI 630941**  
13 **(formerly Advanced Emission Specialist Technician**  
14 **License No. EA 630941)**

15 Respondents.

16 Complainant alleges:

17 **PARTIES**

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

20 **Smogtech McHenry**

21 2. On or about February 27, 2012, the Director of Consumer Affairs ("Director") issued  
22 Automotive Repair Dealer Registration Number ARD 268112 ("Registration No. 268112") to  
23 Heli Villasenor ("Respondent"), owner of Smogtech McHenry. The registration was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on February 28,  
25 2015, unless renewed.

26 3. On or about June 12, 2012, the Director issued Smog Check, Test Only, Station  
27 License Number TC 268112 ("Smog Check Station License No. 268112") to Respondent. The  
28 smog check station license was in full force and effect at all times relevant to the charges brought  
herein and will expire on February 28, 2015, unless renewed.

**Charter Way Smog**

4. On or about May 19, 2011, the Director issued Automotive Repair Dealer  
Registration Number ARD 265170 ("Registration No. 265170") to Respondent, owner of Charter

1 Way Smog. The registration was in full force and effect at all times relevant to the charges  
2 brought herein and will expire on May 31, 2015, unless renewed.

3 5. On or about June 7, 2011, the Director issued Smog Check, Test Only, Station  
4 License Number TC 265170 ("Smog Check Station License No. 265170") to Respondent. The  
5 smog check station license was in full force and effect at all times relevant to the charges brought  
6 herein and will expire on May 31, 2015, unless renewed.

7 **Smogtech Airport**

8 6. On or about July 30, 2012, the Director issued Automotive Repair Dealer Registration  
9 Number ARD 269777 ("Registration No. 269777") to Respondent, owner of Smogtech Airport.  
10 The registration was in full force and effect at all times relevant to the charges brought herein and  
11 will expire on July 31, 2015, unless renewed.

12 7. On or about December 19, 2013, the Director issued Smog Check, Repair, Station  
13 License Number RC 269777 ("Smog Check Station License No. 269777") to Respondent. The  
14 smog check station license was in full force and effect at all times relevant to the charges brought  
15 herein and will expire on July 31, 2015, unless renewed.

16 **Smog Tech 2**

17 8. On or about January 6, 2012, the Director issued Automotive Repair Dealer  
18 Registration Number ARD 267654 ("Registration No. 267654") to Respondent, owner of Smog  
19 Tech 2. Respondent's registration was in full force and effect at all times relevant to the charges  
20 brought herein and will expire on January 31, 2015, unless renewed.

21 9. On or about January 23, 2012, the Director issued Smog Check, Test Only, Station  
22 License Number TC 267654 ("smog check station license") to Respondent. Respondent's smog  
23 check station license was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on January 31, 2015, unless renewed.

25 **Smogtech Tracy**

26 10. On or about January 21, 2014, the Director issued Automotive Repair Dealer  
27 Registration Number ARD 275318 ("registration") to Respondent, owner of Smogtech Tracy.

28 ///

1 Respondent's registration was in full force and effect at all times relevant to the charges brought  
2 herein and will expire on January 31, 2015, unless renewed.

3 11. On or about February 3, 2014, the Director issued Smog Check, Test Only, Station  
4 License Number TC 275318 ("smog check station license") to Respondent. Respondent's smog  
5 check station license was in full force and effect at all times relevant to the charges brought herein  
6 and will expire on January 31, 2015, unless renewed.

7 **Heli Villasenor**

8 12. On or about April 10, 2009, the Director issued Advanced Emission Specialist  
9 Technician License Number EA 630941 to Respondent. Respondent's advanced emission  
10 specialist technician license was due to expire on October 31, 2012. Pursuant to California Code  
11 of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to  
12 Respondent's election, as Smog Check Inspector License Number EO 630941 and Smog Check  
13 Repair Technician License Number EI 630941, effective July 17, 2012.<sup>1</sup> Respondent's Smog  
14 Check Inspector License will expire on October 31, 2016, unless renewed. Respondent's Smog  
15 Check Repair Technician License expired on October 31, 2014, and has not been renewed.

16 **JURISDICTION**

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

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

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

26 <sup>1</sup> 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 16. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
2 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
3 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
4 of jurisdiction to proceed with disciplinary action.

5 17. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
6 suspended following a hearing under this article, any additional license issued under this chapter  
7 in the name of the licensee may be likewise revoked or suspended by the director.

8 18. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
9 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
10 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
11 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

12 **STATUTORY AND REGULATORY PROVISIONS**

13 19. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

23 . . . .

24 (3) Failing or refusing to give to a customer a copy of any document  
25 requiring his or her signature, as soon as the customer signs the document.

26 (4) Any other conduct that constitutes fraud.

27 . . . .

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

. . . .

///

///

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

6 20. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

7 The automotive repair dealer shall give to the customer a written  
8 estimated price for labor and parts necessary for a specific job. No work shall be  
9 done and no charges shall accrue before authorization to proceed is obtained from the  
10 customer. No charge shall be made for work done or parts supplied in excess of the  
11 estimated price without the oral or written consent of the customer that shall be  
12 obtained at some time after it is determined that the estimated price is insufficient and  
13 before the work not estimated is done or the parts not estimated are supplied. Written  
14 consent or authorization for an increase in the original estimated price may be  
15 provided by electronic mail or facsimile transmission from the customer. The bureau  
16 may specify in regulation the procedures to be followed by an automotive repair  
17 dealer when an authorization or consent for an increase in the original estimated price  
18 is provided by electronic mail or facsimile transmission. If that consent is oral, the  
19 dealer shall make a notation on the work order of the date, time, name of person  
20 authorizing the additional repairs and telephone number called, if any, together with a  
21 specification of the additional parts and labor and the total additional cost . . .

22 21. Bus. & Prof. Code section 22, subdivision (a), states:

23 "Board" as used in any provision of this Code, refers to the board in  
24 which the administration of the provision is vested, and unless otherwise expressly  
25 provided, shall include "bureau," "commission," "committee," "department,"  
26 "division," "examining committee," "program," and "agency."

27 22. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
28 "license" includes "registration" and "certificate."

29 23. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

36 . . . .

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

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

41 ///

1           24. California Code of Regulations, title 16, section (“Regulation”) 3340.16, subdivision  
2 (a), states that “[a] smog check test-only station shall meet the requirements for equipment and  
3 materials as specified in the Smog Check Manual referenced in section 3340.45.”

4           25. Regulation 3340.45 states:

5                   (a) All Smog Check inspections shall be performed in accordance with  
6 requirements and procedures prescribed in the following:

7                           (1) Smog Check Inspection Procedures Manual, dated August 2009,  
8 which is hereby incorporated by reference. This manual shall be in effect until  
9 subparagraph (2) is implemented.

10                           (2) Smog Check Manual, dated 2013, which is hereby incorporated by  
11 reference. This manual shall become effective on or after January 1, 2013.

12           26. Regulation 3371 states, in pertinent part:

13                   No dealer shall publish, utter, or make or cause to be published, uttered,  
14 or made any false or misleading statement or advertisement which is known to be  
15 false or misleading, or which by the exercise of reasonable care should be known to  
16 be false or misleading . . .

17           27. Regulation 3372 states:

18                   In determining whether any advertisement, statement, or representation is  
19 false or misleading, it shall be considered in its entirety as it would be read or heard  
20 by persons to whom it is designed to appeal. An advertisement, statement, or  
21 representation shall be considered to be false or misleading if it tends to deceive the  
22 public or impose upon credulous or ignorant persons.

23           28. Regulation 3372.1 states, in pertinent part:

24                   An automotive repair dealer shall not advertise automotive service at a  
25 price which is misleading. Price advertising is misleading in circumstances which  
26 include but are not limited to the following:

27                   . . . .

28                           (b) The advertisement for service has the capacity to mislead the public as  
to the extent that anticipated parts, labor or other services are included in the  
advertised price; or

                 . . . .

                         (d) The automotive repair dealer knows or should know that the  
advertised service cannot usually be performed in a good and workmanlike manner  
without additional parts, services or labor; provided, however, that an advertisement  
which clearly and conspicuously discloses that additional labor, parts or services are  
often needed will, to that extent, not be regarded as misleading. Any such disclosure  
statement shall indicate that many instances of performance of the service involve  
extra cost and, if the automotive dealer reasonably expects that the extra cost will be

1 more than 25% of the advertised costs, that the extra cost may be substantial. The  
2 type size of the disclosure statement shall be at least 1/2 the type size used in the  
3 advertised price and the statement shall either be shown near the price or shall be  
4 prominently footnoted through use of an asterisk or similar reference.

5 29. Regulation 3373 states:

6 No automotive repair dealer or individual in charge shall, in filling out an  
7 estimate, invoice, or work order, or record required to be maintained by section  
8 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or  
9 information which will cause any such document to be false or misleading, or where  
10 the tendency or effect thereby would be to mislead or deceive customers, prospective  
11 customers, or the public.

### 12 COST RECOVERY

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

### 17 BACKGROUND

18 31. On or about March 4, 2011, the Bureau sent ET (electronic transmission) Blast  
19 # 30743, entitled "Proper Advertising of Smog Check Inspections", to all licensed smog check  
20 stations.<sup>2</sup> The ET blast stated, in part, as follows:

21 Electronic Transmission must be included in the cost of a Smog Check  
22 Inspection.

23 For many consumers, price is often a key determinant when selecting a  
24 station to perform a Smog Check inspection on their vehicle. Many stations recognize  
25 this fact and use advertising to promote their business.

26 When advertising this service, shops must include all the fees the  
27 customer must pay in order to complete an inspection. This includes all electronic  
28 transmission charges. Unlike the Smog Check certificate of compliance that is only  
issued upon a passing inspection, electronic transmission is not an optional  
component of the Smog Check inspection and therefore must be included in the  
overall advertised price for an advertisement to be in compliance with Title 16,  
California Code of Regulations section 3372.1. Simply put, this means that a Smog  
Check inspection cannot be done without the electronic communication to the  
Vehicle Information Database, and therefore is not an option on which consumers can  
make a price decision.

///

---

<sup>2</sup> ET blasts are transmitted or sent through the smog check station's EIS (emissions inspection system).

1 Any additional fees for services that may be extra depending on the type  
2 of vehicle being inspected must also be disclosed in the advertisement. The consumer  
3 should be able to determine if any additional costs may apply to their vehicle  
4 inspection . . .

5 32. On or about October 17, 2013, Bureau representatives met with Respondent at his  
6 facility, Smogtech McHenry, after receiving a complaint from a consumer, alleging that  
7 Respondent had charged him \$30 more than his advertised price of \$24.75 for a smog inspection.  
8 The consumer was informed following the inspection that his vehicle needed an additional test, a  
9 low pressure fuel evaporation test ("LPFET")<sup>3</sup>, which cost extra as indicated in fine print on  
10 Respondent's internet advertisement/coupon. The representatives reviewed Respondent's ad with  
11 him. Respondent was offering smog check inspections at Smogtech McHenry at a cost of \$24.75  
12 for "most cars". The ad stated in fine print near the advertised price that vehicles for model years  
13 1976 to 1995 would be "extra" if an LPFET was needed. Respondent told the representatives that  
14 he charged an additional \$30 to perform the LPFET test and that this price was posted on a sign in  
15 his office. Respondent's sign read as follows:

16 ATTENTION SMOG CHECK CUSTOMERS. As of December 1, 2007,  
17 the State of California is now requiring a low pressure test (LPFET) of your vehicle's  
18 fuel evaporative control system (EVAP). Testing required on most model year  
19 vehicles 1976 thru 1995 in addition to the state required Smog Check. The  
20 ADDITIONAL FEE for this test is \$30.

21 The representatives advised Respondent that he needed to include the specific cost for the LPFET  
22 test on his advertising.

23 **CONSUMER COMPLAINT (D.S.): 1992 PONTIAC BONNEVILLE**

24 33. On or about November 19, 2013, D.S. took her 1992 Pontiac Bonneville to  
25 Respondent's facility, Smogtech McHenry, for a smog inspection. D.S. presented Respondent's  
26 employee with an advertisement/coupon for Smogtech McHenry. Respondent was offering a  
27 smog check "starting" at \$21.75 plus \$8.25 for a certificate. The ad stated in fine print near the  
28 advertised price that the facility would "do LPFET test if needed". The employee took the  
coupon and asked D.S. to wait in the customer waiting area. The employee pulled the vehicle

<sup>3</sup> The LPFET functional test is required on most 1976 to 1995 vehicles. The smog check technician is required to follow the procedures set forth in the Bureau's Smog Check Inspection Procedures Manual to determine if the vehicle requires an LPFET test.

1 into the service stall, then returned later and told D.S. that the vehicle needed an LPFET test for  
2 an additional \$30. D.S. questioned the employee about the extra cost. The employee showed  
3 D.S. the sign in the office regarding the additional fee for the LPFET test. D.S. authorized the  
4 facility to proceed with the inspection since the vehicle was already in the service stall. After the  
5 inspection was completed, D.S. paid the facility \$60 and received copies of a vehicle inspection  
6 report (“VIR”) and an invoice.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(False Advertising)**

9 34. Respondent's Registration No. 268112 is subject to disciplinary action pursuant to  
10 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
11 of California Code of Regulations, title 16, in the following material respects:

12 a. **Regulation 3371:** Respondent published, uttered, or made, or caused to be  
13 published, uttered, or made false or misleading statements or advertisements which are known to  
14 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
15 misleading, as follows: Respondent represented on his advertisement/coupon that the smog  
16 inspection would cost \$21.75 plus \$8.25 for the certificate and that his facility would perform the  
17 LPFET test if needed, but failed to state that the LPFET test would cost an additional \$30.

18 b. **Regulation 3372.1, subdivision (b):** Respondent advertised the smog inspection at a  
19 price which was misleading, as set forth in subparagraph (a) above.

20 c. **Regulation 3372.1, subdivision (d):** Respondent failed to ensure that the type size  
21 of the disclosure statement, described in subparagraph (a) above, was one half the print size used  
22 in the advertised price of the smog inspection.

23 **CONSUMER COMPLAINT (L.Y.): 2001 TOYOTA RAV 4**

24 35. On or about October 28, 2013, L.Y. took her 2001 Toyota Rav 4 to Respondent's  
25 facility, Charter Way Smog, for a smog inspection after seeing Respondent's  
26 advertisement/coupon in the *Penny Saver*. Respondent was offering smog check inspections at  
27 Charter Way Smog for \$31.75 plus \$8.25 for a certificate, for a total of “\$40 out the door”. L.Y.  
28 met with Respondent's smog technician, Angel Magno (“Magno”), and showed him the coupon

1 on her cellphone. Magno would not honor the coupon, but did offer L.Y. a \$40 discount on the  
2 regular price of \$84.75. L.Y. signed and received a copy of a written estimate in the amount of  
3 \$53 (\$44.75 for the inspection and \$8.25 for the certificate). After the inspection was completed,  
4 Magno informed L.Y. that the vehicle failed due to incomplete monitors. Magno gave L.Y. an  
5 invoice in the amount of \$84.75 and a VIR. The VIR indicated that the vehicle had failed the  
6 OBD System Check. L.Y. paid Magno \$84.75 and left the facility.

7 36. On or about October 31, 2013, L.T. took the vehicle to Toyota Town located in  
8 Stockton to determine why it had failed the inspection. Toyota Town had the vehicle retested at  
9 Hammer Lane Smog Center. The vehicle passed the smog inspection without any repairs  
10 performed on the vehicle.

11 37. On or about November 4, 2013, L.T. filed a complaint against Charter Way Smog  
12 with the Bureau.

13 38. On or about January 8, 2014, a Bureau representative made a field visit to Charter  
14 Way Smog and obtained copies of their repair records on the vehicle, including a copy of the  
15 invoice. The facility's copy of the invoice showed that the original estimate price for the smog  
16 inspection was \$53 and that the estimate had been revised to \$84.75. The representative was also  
17 given a refund check in the amount of \$84.75 made payable to L.T.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 39. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
21 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a  
22 statement which he knew or in the exercise of reasonable care should have known to be untrue or  
23 misleading, as follows: Respondent represented on the invoice given to the Bureau that the  
24 original estimate price for the smog inspection on L.T.'s 2001 Toyota Rav 4 had been revised to  
25 \$84.75. In fact, L.T. had not authorized the facility to exceed the \$53 estimate price for the  
26 inspection on the vehicle.

27 ///

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(False Advertising)**

3 40. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
5 Regulation 3371 by publishing, uttering, or making, or causing to be published, uttered, or made  
6 false or misleading statements or advertisements which are known to be false or misleading, or  
7 which by the exercise of reasonable care should be known to be false or misleading, as follows:  
8 Respondent represented on the *Penny Saver* advertisement/coupon that the smog inspection  
9 would cost \$31.75 plus \$8.25 for a certificate, for a total of "\$40 out the door". In fact,  
10 Respondent's smog technician, Magno, charged L.T. a total of \$84.75 for the smog inspection on  
11 her 2001 Toyota Rav 4.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Code)**

14 41. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
15 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
16 section 9884.9, subdivision (a), of that Code, in a material respect, as follows: Respondent's  
17 smog technician, Magno, exceeded the original estimate price of \$53 for the smog inspection on  
18 L.T.'s 2001 Toyota Rav 4 without L.T.'s oral or written consent.

19 **CONSUMER COMPLAINT (G.A.): 1984 NISSAN PICKUP**

20 42. On or about January 4, 2014, G.A. took his 1984 Nissan pickup to Respondent's  
21 facility, Charter Way Smog, for a smog inspection after seeing Respondent's advertisement on a  
22 van parked in front of the business. Respondent was offering smog inspections for \$29.99 plus  
23 "cert" plus "LPFET". Respondent's smog technician, David Bower ("Bower"), informed G.A.  
24 that the vehicle required an LPFET test, which would be an additional \$30. Bower told G.A. that  
25 it would cost a total of \$70 for the inspection, including the certificate if the vehicle passed.  
26 Bower did not give G.A. a written estimate. After the inspection was completed, Bower told  
27 G.A. that the test now cost \$114.75 because the vehicle failed due to the ignition timing and the  
28 fuel cap, which was defective. Bower provided G.A. with copies of a VIR, an invoice in the

1 amount of \$114.75, and a receipt showing that Bower charged G.A.'s credit card a total of  
2 \$116.75. Bower told G.A. that he only needed to have the timing failure repaired because the  
3 facility did not have the correct fuel cap adapter to test the vehicle's fuel cap.

4 43. Later that same day (January 4, 2014), G.A. took the vehicle to Golden State Auto  
5 Repair to have it retested and repaired if necessary. Smog technician Andy Chung informed G.A.  
6 that the ignition timing on the vehicle was not out of adjustment and the fuel cap was not  
7 defective. The vehicle passed the smog inspection.

8 44. On or about January 11, 2014, G.A. filed a complaint with the Bureau.

9 45. On or about February 21, 2014, a representative of the Bureau conducted a station  
10 inspection at Charter Way Smog. The representative found that Respondent did not have the  
11 required fuel cap adapter guide and was missing the gray and purple fuel cap adapters. The gray  
12 fuel cap adapter was the correct adapter for G.A.'s vehicle and was needed for the fuel cap  
13 functional test. Respondent provided the representative with a refund check in the amount of  
14 \$36.75 made payable to G.A.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 46. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
18 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts  
19 constituting fraud, as follows: Respondent's smog technician, Bower, obtained G.A.'s  
20 authorization for performing a smog inspection on his 1984 Nissan pickup at a cost of \$70,  
21 including the certificate if the vehicle passed the inspection, then charged Bower a total of  
22 \$116.75 for the inspection, claiming that the additional fees were necessary because the vehicle  
23 failed the ignition timing test and fuel cap functional test. In fact, Bower had not authorized any  
24 additional fees for the ignition timing test or the fuel cap functional test. Further, the vehicle had  
25 passed a smog inspection performed at Golden State Auto Repair subsequent to the test  
26 conducted at Charter Way Smog, as set forth in paragraph 43 above.

27 ///

28 ///

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 47. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
5 section 9884.9, subdivision (a), of that Code, in a material respect, as follows: Respondent's  
6 smog technician, Bower, exceeded the original estimate price of \$70 for the smog inspection on  
7 G.A.'s 1984 Nissan pickup without G.A.'s oral or written consent.

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 **(False Advertising)**

10 48. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
11 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
12 of California Code of Regulations, title 16, in the following material respects:

13 a. **Regulation 3371**: Respondent published, uttered, or made, or caused to be  
14 published, uttered, or made false or misleading statements or advertisements which are known to  
15 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
16 misleading, as follows: Respondent represented on the advertisement located on the van that he  
17 was offering smog inspections for \$29.99 plus "cert", plus "LPFET", but failed to state the cost of  
18 the certificate (\$8.25) and the LPFET test (\$30).

19 b. **Regulation 3372.1, subdivision (b)**: Respondent advertised the smog inspection at a  
20 price which was misleading, as set forth in subparagraph (a) above.

21 **EIGHTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations Pursuant**  
23 **to the Motor Vehicle Inspection Program)**

24 49. Respondent's Smog Check Station License No. 265170 is subject to disciplinary  
25 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
26 to comply with provisions of California Code of Regulations, title 16, as follows:

27 a. **3340.16, subdivision (a)**: Respondent failed to maintain the required equipment and  
28 materials as specified in the Smog Check Manual, specifically, the required Waekon Fuel Cap

1 Adapter Guide and the gray and purple adapters. The gray adapter was required to test G.A.'s  
2 1984 Nissan pickup, as set forth in paragraph 45 above.

3 b. **Regulation 3340.45**: Respondent failed to comply with the requirements and  
4 procedures specified in the Smog Check Manual, specifically section 1.8.0 (Equipment and  
5 Reference Materials), as follows: Respondent failed to reject G.A.'s 1984 Nissan pickup before  
6 starting the inspection in that Respondent lacked the equipment, tools, and/or reference materials  
7 necessary to perform the required fuel cap functional test on the vehicle.

### 8 **NINTH CAUSE FOR DISCIPLINE**

#### 9 **(Dishonesty, Fraud or Deceit)**

10 50. Respondent's Smog Check Station License No. 265170 is subject to disciplinary  
11 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
12 committed a dishonest, fraudulent or deceitful act whereby another is injured, as set forth in  
13 paragraph 46 above.

### 14 **UNDERCOVER OPERATION #1: 2007 CHEVROLET**

15 51. On or about February 27, 2014, a representative of the Bureau, acting in an  
16 undercover capacity ("operator"), took the Bureau's 2007 Chevrolet to Respondent's facility,  
17 Smog Tech 2. The operator met with Respondent's smog check technician, Nakrong Sithi  
18 ("Sithi"), and requested a smog inspection. Sithi began preparing a work order and pointed to the  
19 price sign on the wall. Sithi told the operator that the inspection would cost \$74.75 plus an  
20 additional \$10 because the 2007 Chevrolet was a sport utility vehicle ("SUV"). The operator  
21 presented Sithi with an advertisement/coupon from the internet website *smogtechcalifornia.com*.  
22 Respondent was offering smog check inspections for \$21.75 "most cars". The ad indicated that  
23 the facility would smog "all makes and models", cars, trucks, SUV's, motorhomes, and heavy  
24 duty vehicles. Sithi told the operator that the coupon was only good for their Tracy store. Sithi  
25 explained that their Tracy store had just opened last month and that they were using the coupon to  
26 help them get the business going. Sithi told the operator that he would only charge him \$29.75  
27 plus an additional \$10 because the vehicle was an SUV and that the total cost would be \$48,  
28 including the certificate if the vehicle passed the inspection. The operator agreed to the price.

1 Sithi had the operator sign the work order, but did not give him a copy. After the inspection was  
2 completed, Sithi told the operator that the vehicle passed. The operator paid the facility \$48 and  
3 was given copies of an invoice and a VIR.

4 **TENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Provide Customer with Copy of Signed Document)**

6 52. Respondent's Registration No. 267654 is subject to disciplinary action pursuant to  
7 Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's smog technician, Sithi,  
8 failed to provide the operator with a copy of the work order as soon as he signed the document.

9 **ELEVENTH CAUSE FOR DISCIPLINE**

10 **(False Advertising)**

11 53. Respondent's Registration No. 267654 is subject to disciplinary action pursuant to  
12 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
13 Regulation 3371 by publishing, uttering, or making, or causing to be published, uttered, or made  
14 false or misleading statements or advertisements which are known to be false or misleading, or  
15 which by the exercise of reasonable care should be known to be false or misleading, as follows:  
16 Respondent represented on the internet advertisement/coupon that the smog inspection would cost  
17 \$21.75 "most cars", and that the facility would smog "all makes and models", cars, trucks,  
18 SUV's, motorhomes, and heavy duty vehicles. In fact, Respondent's smog technician, Sithi,  
19 charged the operator \$39.75 for the smog inspection on the Bureau's 2007 Chevrolet.

20 **UNDERCOVER OPERATION #2: 1990 CHEVROLET**

21 54. On or about February 27, 2014, a representative of the Bureau, acting in an  
22 undercover capacity ("operator"), took the Bureau's 1990 Chevrolet to Respondent's facility,  
23 Charter Way Smog. The operator had an advertisement/coupon offering smog inspections at  
24 Charter Way Smog for \$39.75 "out the door". The ad stated in fine print near the advertised price  
25 "95 and older vehicles LPFET extra".

26 55. The operator requested a smog inspection and provided Respondent with a DMV  
27 billing notice for the vehicle. Respondent asked the operator for the coupon. The operator gave  
28 Respondent the coupon and the keys to the vehicle. Respondent drove the vehicle into the

1 inspection bay. The operator went into the office and observed Respondent scan the DMV billing  
2 notice and make entries into the EIS. Respondent came into the office and asked the operator to  
3 fill out the upper portion of a written estimate. The operator looked at the estimate and noticed  
4 that it had a \$30.75 charge for the inspection, a \$15 charge for an LPFET test, and an \$8.25  
5 charge for a smog certificate. The operator pointed out to Respondent that the advertised price  
6 for the smog check was \$39. Respondent told the operator that there were two tests that needed  
7 to be performed on the vehicle, the smog test and the LPFET test, and that the extra charge was  
8 for the LPFET test. The operator signed and received a copy of the estimate. Later, the operator  
9 observed Respondent perform the smog inspection. Respondent connected the LPFET test  
10 equipment to the vehicle, then ran the vehicle on the dynamometer while performing the LPFET  
11 test. After the smog inspection was completed, Respondent told the operator that the vehicle  
12 passed. The operator paid Respondent \$54 and received copies of an invoice and a VIR.

13 **TWELFTH CAUSE FOR DISCIPLINE**

14 **(False Advertising)**

15 56. Respondent's Registration No. 265170 is subject to disciplinary action pursuant to  
16 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
17 of California Code of Regulations, title 16, in the following material respects:

18 a. **Regulation 3371:** Respondent published, uttered, or made, or caused to be  
19 published, uttered, or made false or misleading statements or advertisements which are known to  
20 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
21 misleading, as follows: Respondent represented on his advertisement/coupon that the smog  
22 inspection would cost \$39.75 "out the door" and stated "'95 and older vehicles LPFET extra", but  
23 failed to specify that the LPFET test would cost an additional \$15.

24 b. **Regulation 3372.1, subdivision (b):** Respondent advertised the smog inspection at a  
25 price which was misleading, as set forth in subparagraph (a) above.

26 ///

27 ///

28

1 c. **Regulation 3372.1, subdivision (d):** Respondent failed to ensure that the type size  
2 of the disclosure statement, described in subparagraph (a) above, was one half the print size used  
3 in the advertised price of the smog inspection.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

6 57. Respondent's Smog Check Station License No. 265170 is subject to disciplinary  
7 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
8 to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to  
9 perform the LPFET test on the Bureau's 1990 Chevrolet in accordance with procedures  
10 prescribed by the department in that he ran the emission test with the LPFET equipment  
11 connected to the vehicle.

12 **FOURTEENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant**  
14 **to the Motor Vehicle Inspection Program)**

15 58. Respondent's Smog Check Station License No. 265170 is subject to disciplinary  
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
17 to comply with Regulation 3340.42, as follows: Respondent failed to conduct the required smog  
18 tests, specifically, the LPFET test, on the Bureau's 1990 Chevrolet in accordance with the  
19 Bureau's specifications.

20 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

22 59. Respondent's technician licenses are subject to disciplinary action pursuant to Health  
23 & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section  
24 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the LPFET test on  
25 the Bureau's 1990 Chevrolet in accordance with procedures prescribed by the department, as set  
26 forth in paragraph 57 above.

27 ///

28 ///



1 The operator also received a copy of an estimate (the document had been placed on the dashboard  
2 of the vehicle).

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

4 **(False Advertising)**

5 62. Respondent's Registration No. 269777 is subject to disciplinary action pursuant to  
6 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
7 of California Code of Regulations, title 16, in the following material respects:

8 a. **Regulation 3371:** Respondent published, uttered, or made, or caused to be  
9 published, uttered, or made false or misleading statements or advertisements which are known to  
10 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
11 misleading , as follows: Respondent represented on his advertisement/coupon that the smog  
12 inspection would cost \$31.75 plus \$8.25 for the certificate and that his facility would perform the  
13 LPFET test if needed, but failed to state that the LPFET test would cost an additional \$30.

14 b. **Regulation 3372.1, subdivision (b):** Respondent advertised the smog inspection at a  
15 price which was misleading, as set forth in subparagraph (a) above.

16 c. **Regulation 3372.1, subdivision (d):** Respondent failed to ensure that the type size  
17 of the disclosure statement, described in subparagraph (a) above, was one half the print size used  
18 in the advertised price of the smog inspection.

19 **EIGHTEENTH CAUSE FOR DISCIPLINE**

20 **(Violations of the Code)**

21 63. Respondent's Registration No. 269777 is subject to disciplinary action pursuant to  
22 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
23 section 9884.9, subdivision (a), of that Code, in a material respect, as follows: Respondent's  
24 employee, Lorenzo, failed to provide the operator with a written estimate prior to performing the  
25 smog inspection on the Bureau's 1992 Toyota.

26 ///

27 ///

28 ///

**UNDERCOVER OPERATION #4: 1992 TOYOTA**

1  
2       64. On or about February 27, 2014, a representative of the Bureau, acting in an  
3 undercover capacity (“operator”), took the Bureau’s 1992 Toyota (the vehicle involved in the  
4 third undercover operation), to Respondent’s facility, Smogtech McHenry. The ignition timing  
5 on the Bureau-documented vehicle was not adjusted to manufacturer’s specifications. The  
6 operator met with a male employee and requested a smog inspection. The employee asked the  
7 operator if he had a coupon. The operator handed the employee an advertisement/coupon from  
8 the *Modesto Book of Savings*. Respondent was offering smog inspections at Smogtech McHenry  
9 for \$21.75 plus \$8.25 for the certificate. The ad stated in fine print that the facility would “do  
10 LPFET test if needed”. The employee told the operator that the inspection would cost \$21.75  
11 plus the certificate, then stated that the vehicle required an additional test for the fuel evaporation  
12 system which would cost an additional \$30. The operator authorized the price for the inspection.

13       65. Later, the operator observed smog technician Trung Nguyen (“Nguyen”) drive the  
14 vehicle into the inspection bay and begin the inspection. While Nguyen was accelerating the  
15 vehicle on the dynamometer, an employee brought the operator a repair order. The employee had  
16 the operator sign the repair order, but did not give him a copy. The operator continued to observe  
17 Nguyen from the waiting room. Nguyen had just completed the Acceleration Simulation Mode  
18 portion of the smog inspection. Nguyen opened the vehicle hood and removed the tachometer  
19 lead. Nguyen looked under the hood for less than a minute, then closed the hood. Nguyen went  
20 to the EIS and entered information into the system. The operator never saw Nguyen use a timing  
21 light to check the ignition timing on the vehicle (the videotape of the undercover operation  
22 confirmed that Nguyen had not used a timing light during the inspection). Later, Nguyen told the  
23 operator that the vehicle passed the inspection. The operator paid Nguyen \$60 and received  
24 copies of an invoice and a VIR. The operator returned to the vehicle and found a copy of the  
25 signed repair order on the passenger seat. That same day, electronic smog Certificate of  
26 Compliance No. YD492988C was issued for the vehicle.

27       66. On March 11, 2014, the Bureau inspected the vehicle and found that the ignition  
28 timing still was not adjusted to manufacturer’s specifications.



1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

2 **(False Advertising)**

3 70. Respondent's Registration No. 268112 is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
5 of California Code of Regulations, title 16, in the following material respects:

6 a. **Regulation 3371:** Respondent published, uttered, or made, or caused to be  
7 published, uttered, or made false or misleading statements or advertisements which are known to  
8 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
9 misleading, as follows: Respondent represented on his advertisement/coupon that the smog  
10 inspection would cost \$21.75 plus \$8.25 for the certificate and that his facility would perform the  
11 LPFET test if needed, but failed to state that the LPFET test would cost an additional \$30.

12 b. **Regulation 3372.1, subdivision (b):** Respondent advertised the smog inspection at a  
13 price which was misleading, as set forth in subparagraph (a) above.

14 c. **Regulation 3372.1, subdivision (d):** Respondent failed to ensure that the type size  
15 of the disclosure statement, described in subparagraph (a) above, was one half the print size used  
16 in the advertised price of the smog inspection.

17 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

19 71. Respondent's Smog Check Station License No. 268112 is subject to disciplinary  
20 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
21 to comply with the following sections of that Code:

22 a. **Section 44012, subdivision (f):** Respondent failed to ensure that the functional tests  
23 of the emission control systems and devices on the Bureau's 1992 Toyota were performed in  
24 accordance with procedures prescribed by the department.

25 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
26 the Bureau's 1992 Toyota without ensuring that the vehicle was properly tested and inspected to  
27 determine if it was in compliance with Health & Saf. Code section 44012.

28 ///

1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 72. Respondent's Smog Check Station License No. 268112 is subject to disciplinary  
5 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
6 to comply with the following sections of California Code of Regulations, title 16:

7 a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate  
8 of compliance for the Bureau's 1992 Toyota even though the vehicle had not been inspected in  
9 accordance with section 3340.42.

10 b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
11 conducted on the Bureau's 1992 Toyota in accordance with the Bureau's specifications.

12 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

14 73. Respondent's Smog Check Station License No. 268112 is subject to disciplinary  
15 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
16 committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows:  
17 Respondent issued an electronic smog certificate of compliance for the Bureau's 1992 Toyota  
18 without ensuring that a bona fide inspection was performed of the emission control devices and  
19 systems on the vehicle, thereby depriving the People of the State of California of the protection  
20 afforded by the Motor Vehicle Inspection Program.

21 **CONSUMER COMPLAINT (J.F.): 1994 FORD RANGER**

22 74. On or about February 27, 2014, J.F. asked his brother-in-law, J.L., to take his (J.F.'s)  
23 1994 Ford Ranger to Respondent's facility, Smogtech Airport, for a smog inspection after seeing  
24 Respondent's advertisement/coupon on the internet. Respondent was offering smog inspections  
25 at Smogtech Airport for \$31.75 plus \$8.25 for the certificate. The ad stated in fine print that the  
26 facility would "do LPFET test if needed". J.L. called Smogtech Airport and asked the individual  
27 who answered the phone if the truck qualified for the advertised price. The individual told J.L.  
28 that the vehicle did qualify and asked him to bring the coupon with him to the facility. When J.L.

1 arrived at Smogtech Airport, he was informed that the vehicle did not qualify for the coupon price  
2 because it needed a special EVAP test (LPFET test), which cost an additional \$30. J.L. was given  
3 a written estimate in the amount of \$83 for the smog inspection. After the inspection was  
4 completed, J.L. was informed that the vehicle failed. J.L. paid the facility \$76.75 and received  
5 copies of an invoice and a VIR. The VIR indicated that the vehicle failed the inspection due to  
6 the ignition timing, the OBD System Checks, Other Emission Related Components, and liquid  
7 fuel leaks, and that the inspection had been performed by smog technician Jose Cruz ("Cruz").

8 75. On or about March 13, 2014, the Bureau received a complaint from J.F., alleging,  
9 among other things, that Respondent failed to specify the cost for the EVAP test on his  
10 advertisement.

11 76. On or about March 21, 2014, a representative of the Bureau made a field visit to the  
12 facility and met with the service manager, Lorenzo Lomeli, and Cruz. The representative  
13 reviewed the VIR and invoice with Cruz and asked him to explain why the vehicle failed the  
14 smog inspection for the ignition timing, liquid fuel leaks, OBD system checks, and Other  
15 Emission Related Components. Cruz could not remember where he found the liquid fuel leak,  
16 and told the representative that the failure of the Other Emission Related Components was  
17 probably tail pipe smoke.

## 18 TWENTY-SIXTH CAUSE FOR DISCIPLINE

### 19 (False Advertising)

20 77. Respondent's Registration No. 269777 is subject to disciplinary action pursuant to  
21 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions  
22 of California Code of Regulations, title 16, in the following material respects:

23 a. **Regulation 3371**: Respondent published, uttered, or made, or caused to be  
24 published, uttered, or made false or misleading statements or advertisements which are known to  
25 be false or misleading, or which by the exercise of reasonable care should be known to be false or  
26 misleading, as follows: Respondent represented on his advertisement/coupon that the smog  
27 inspection would cost \$31.75 plus \$8.25 for the certificate and that his facility would perform the  
28 LPFET test if needed, but failed to state that the LPFET test would cost an additional \$30.



1 29, 2013, Respondent issued a certificate of compliance to a Bureau undercover vehicle with an  
2 unapproved aftermarket performance chip device. The Bureau assessed a civil penalty of \$1,000  
3 against Respondent for the violation. Respondent requested an informal appeal conference on  
4 January 21, 2014. The citation was affirmed and reissued on February 26, 2014. Respondent  
5 paid the citation on April 14, 2014.

6 b. On or about January 17, 2014, the Bureau issued Citation No. C2014-0467 against  
7 Respondent for violating Health & Saf. Code section 44012, subdivision (f). On or about  
8 November 25, 2013, Respondent issued a certificate of compliance to a Bureau undercover  
9 vehicle with the ignition timing adjusted beyond specifications. The Bureau assessed a civil  
10 penalty of \$1,000 against Respondent for the violation. Respondent appealed the citation. The  
11 citation is currently pending.

12 **OTHER MATTERS**

13 80. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
14 suspend, revoke or place on probation the registration for all places of business operated in this  
15 state by Heli Villasenor, owner of Smogtech McHenry, Charter Way Smog, Smogtech Airport,  
16 Smog Tech 2, and Smogtech Tracy, upon a finding that Respondent has, or is, engaged in a  
17 course of repeated and willful violations of the laws and regulations pertaining to an automotive  
18 repair dealer.

19 81. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
20 License Number TC 268112, issued to Heli Villasenor, owner of Smogtech McHenry, is revoked  
21 or suspended, any additional license issued under this chapter in the name of said licensee,  
22 including, but not limited to, Smog Check, Test Only, Station License Number TC 267654,  
23 issued to Heli Villasenor, owner of Smog Tech 2, and Smog Check, Test Only, Station License  
24 Number TC 275318, issued to Heli Villasenor, owner of Smogtech Tracy, may be likewise  
25 revoked or suspended by the Director.

26 82. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
27 License Number TC 265170, issued to Heli Villasenor, owner of Charter Way Smog, is revoked  
28 or suspended, any additional license issued under this chapter in the name of said licensee,

1 including, but not limited to, Smog Check, Test Only, Station License Number TC 267654,  
2 issued to Heli Villasenor, owner of Smog Tech 2, and Smog Check, Test Only, Station License  
3 Number TC 275318, issued to Heli Villasenor, owner of Smogtech Tracy, may be likewise  
4 revoked or suspended by the Director.

5 83. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Repair, Station  
6 License Number RC 269777, issued to Heli Villasenor, owner of Smogtech Airport, is revoked or  
7 suspended, any additional license issued under this chapter in the name of said licensee,  
8 including, but not limited to, Smog Check, Test Only, Station License Number TC 267654,  
9 issued to Heli Villasenor, owner of Smog Tech 2, and Smog Check, Test Only, Station License  
10 Number TC 275318, issued to Heli Villasenor, owner of Smogtech Tracy, may be likewise  
11 revoked or suspended by the Director.

12 84. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
13 Number EO 630941 and Smog Check Repair Technician License No. EI 630941, issued to Heli  
14 Villasenor, are revoked or suspended, any additional license issued under this chapter in the name  
15 of said licensee may be likewise revoked or suspended by the Director.

16 **PRAYER**

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

19 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
20 268112, issued to Heli Villasenor, owner of Smogtech McHenry;

21 2. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
22 265170, issued to Heli Villasenor, owner of Charter Way Smog;

23 3. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 269777, issued to Heli Villasenor, owner of Smogtech Airport;

25 4. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
26 267654, issued to Heli Villasenor, owner of Smog Tech 2;

27 ///

28 ///

- 1           5.    Revoking or suspending any other automotive repair dealer registration issued to Heli  
2 Villaseñor, including, but not limited to Automotive Repair Dealer Registration Number ARD  
3 275318, issued to Heli Villaseñor, owner of Smogtech Tracy;
- 4           6.    Revoking or suspending Smog Check, Test Only, Station License Number TC  
5 268112, issued to Heli Villaseñor, owner of Smogtech McHenry;
- 6           7.    Revoking or suspending Smog Check, Test Only, Station License Number TC  
7 265170, issued to Heli Villaseñor, owner of Charter Way Smog;
- 8           8.    Revoking or suspending Smog Check, Repair, Station License Number RC 269777,  
9 issued to Heli Villaseñor, owner of Smogtech Airport;
- 10          9.    Revoking or suspending Smog Check Inspector License Number EO 630941 and  
11 Smog Check Repair Technician License No. EI 630941, issued to Heli Villaseñor;
- 12          10.   Revoking or suspending any additional license issued under Chapter 5 of the Health  
13 and Safety Code in the name of Heli Villaseñor, including, but not limited to, Smog Check, Test  
14 Only, Station License Number TC 267654, issued to Heli Villaseñor, owner of Smog Tech 2, and  
15 Smog Check, Test Only, Station License Number TC 275318, issued to Heli Villaseñor, owner of  
16 Smogtech Tracy;
- 17          11.   Ordering Heli Villaseñor, individually, and as owner of Smogtech McHenry, Charter  
18 Way Smog, Smogtech Airport, Smog Tech 2, and Smogtech Tracy, to pay the Director of  
19 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant  
20 to Business and Professions Code section 125.3;
- 21          12.   Taking such other and further action as deemed necessary and proper.

22  
23 DATED:

*December 23, 2014*

*Patrick Dorais*

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

24  
25  
26  
27  
28 SA2014116780