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

12 In the Matter of the Accusation Against:

Case No. 79/22-16035

13 **SARKIS ZIRETSYAN – OWNER, DBA**  
14 **AUTO NARBIX TEST ONLY STATION**  
7310 Van Nuys Blvd., Suite 3  
15 Van Nuys, CA 91405

**ACCUSATION**

16 Automotive Repair Dealer Registration No.  
ARD 288469  
17 Smog Check Test Only Station License No.  
TC 288469

18 and

19 **SARKIS ZIRETSYAN**  
13501 Gilmore St.  
20 Van Nuys, CA 91401

21 Smog Check Inspector License No. EO 636726

22 Respondent.  
23

24 **PARTIES**

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

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1 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or  
2 permanently invalidating (suspending or revoking) a registration.

3 9. Health and Safety Code section 44002 provides, in pertinent part, that the Director  
4 has all the powers and authority granted under the Automotive Repair Act for enforcing the  
5 Motor Vehicle Inspection Program.

6 10. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration  
7 or suspension of a license by operation of law, or by order or decision of the Director of  
8 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the  
9 Director of jurisdiction to proceed with disciplinary action.

### 10 **STATUTORY PROVISIONS**

11 11. Section 9884.7 of the Code states, in pertinent part:

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

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

20 (4) Any other conduct that constitutes fraud.

21 (6) Failure in any material respect to comply with the provisions of this chapter [the  
22 Automotive Repair Act (Business and Professions Code section 9880, et seq.)] or regulations  
23 adopted pursuant to it.

24 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more  
25 than one place of business in this state, the director pursuant to subdivision (a) shall only suspend,  
26 revoke, or place on probation the registration of the specific place of business which has violated  
27 any of the provisions of this chapter. This violation, or action by the director, shall not affect in  
28 any manner the right of the automotive repair dealer to operate his or her other places of business.

1 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on  
2 probation the registration for all places of business operated in this state by an automotive repair  
3 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated  
4 and willful 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  
7 as provided in this article if the licensee, or any partner, officer, or director thereof, does any of  
8 the following:

9 (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and  
10 Safety Code section 44000, et seq.)] and the regulations adopted pursuant to it, which related to  
11 the 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 13. Health and Safety Code section 44072.10 states, in pertinent part:

15 . . . .

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

20 (1) Clean piping, as defined by the department.

21 . . . .

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

24 **REGULATORY PROVISIONS**

25 14. California Code of Regulations, title 16, section 3340.1 states, in pertinent:

26 . . . .

27 "Clean piping," for the purposes of Health and Safety Code section  
28 44072.10(c)(1), means the use of a substitute exhaust emissions sample in place of  
the actual test vehicle's exhaust in order to cause the EIS to issue a certificate of  
compliance for the test vehicle . . .

1 15. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:  
2 “The bureau may suspend or revoke the license of or pursue other legal action against a  
3 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
4 certificate of noncompliance.”

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

9 17. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a  
10 licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, in  
11 accordance with section 44012 of the Health & Safety Code, section 44035 of the Health &  
12 Safety Code, and section 3340.42 of this article.”

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

18 19. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that  
19 “[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  
21 being tested. Nor shall any person knowingly enter into the emissions inspection system any  
22 false information about the vehicle being tested.”

23 20. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions  
24 test methods and procedures which apply to all vehicles inspected in the State of California.

### **COST RECOVERY**

26 21. Business and Professions Code section 125.3 provides, in pertinent part, that a Board  
27 may request the administrative law judge to direct a licentiate found to have committed a

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

3 **VID DATA REVIEW**

4 22. Beginning March 9, 2015, California's Smog Check Program was updated requiring  
5 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment  
6 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and  
7 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data  
8 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On Board  
9 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD  
10 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the  
11 California OIS software and will be retrieved. The DAD connects between the OIS computer and  
12 the vehicle's DLC. The California OIS software requires a continuous Internet connection when  
13 performing a Smog Check inspection and the OIS software communicates with BAR's central  
14 database through the Internet connection. The bar code scanner is used to input technician  
15 information, the vehicles identification number (VIN), and DMV renewal information. The  
16 printer provides a Vehicle Inspection Report (VIR) containing inspection results for motorists and  
17 a Smog Check Certificate of Compliance number for passing vehicles.

18 23. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is  
19 the digitally stored VIN programmed into the vehicle's Powertrain Control Module (PCM); the  
20 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to  
21 relay information; and the number of Parameter Identifications (PIDs), which is the number of  
22 specific data values each PCM uses related to emissions controls.

23 24. If the vehicle passes the visual and functional tests, it passes the overall inspection  
24 and a Certificate of Compliance is issued and transmitted electronically to the Vehicle  
25 Information Database (VID.) These Certificates of Compliance are purchased in blocks of fifty  
26 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit  
27 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of  
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1 Compliance has a unique control number so that it can be tracked to determine which Smog  
2 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

3 25. The VID contains registration data from Department of Motor Vehicles (DMV) plus  
4 emission standards, vehicle smog check inspections, smog check stations and technicians, and  
5 Certificates of Compliance. The VID receives the passing smog check results immediately  
6 following the inspection. During the vehicle registration process, the DMV accesses the VID to  
7 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view  
8 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,  
9 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending  
10 on the test type, also prints a Vehicle Inspection Report (VIR), which is a physical record of the  
11 test results and shows the Certificate of Compliance number that was issued if the vehicle passed  
12 the smog inspection.

13 26. The smog check technician must sign the VIR under penalty of perjury to indicate  
14 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
15 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
16 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of  
17 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
18 the Bureau to perform official inspections. They are issued a personal access code and a license,  
19 which are used to gain access to the EIS and OIS to perform smog check inspections.  
20 Unauthorized use of another technician's access code or license is prohibited.

### 21 **FACTUAL BACKGROUND**

22 27. On or about October 25, 2022, a Bureau representative conducted an investigation in  
23 which he reviewed OIS Test Data for Respondent's Smog Test Only facility for the period of  
24 March 2022 through September 2022. The data obtained in connection with this investigation  
25 revealed anomalies consistent with fraudulent Smog Check activities.

26 28. A further in-depth analysis of this OIS data revealed that there were a total of five (5)  
27 vehicles of various years, makes, and models that were issued fraudulent Certificates of  
28 Compliance using the clean plugging method. These five (5) vehicles were fraudulently certified,

1 as evidenced by the fact that the *communication protocol codes* and *PID counts* which were  
 2 transmitted in connection with all five (5) of these smog tests performed by Respondent Ziretsyan  
 3 at Respondent’s Smog Test Only facility were incorrect, in that they were inconsistent with the  
 4 actual *protocol codes* and *PID counts* which should have been reflected in regard to all five (5)  
 5 vehicles. These discrepancies in the OIS Test Data prove the OIS Data Acquisition Device  
 6 (DAD) was not connected to these vehicles that were being certified, causing the issuance of  
 7 fraudulent Smog Certificates of Compliance as to each of these vehicles. The following chart  
 8 illustrates the documented clean plugging activities of Respondent at his Smog Test Only facility  
 9 between March 11, 2022 and September 27, 2022.

10 TABLE 1

	Test date	Vehicle Tested and certified	VIN or License #	Certificate# Issued	Smog Check Inspector No.	
11	1	3-11-22	2003 Toyota RAV4	4ZEJ658	SO093520C	EO 636726 Sarkis Ziretsyan
12	2	6-22-22	2005 Chevrolet Silverado C1500	2GCEC19T351234676	SS613096C	EO 636726 Sarkis Ziretsyan
13	3	7-15-22	2001 Nissan Altima XE	7TZK252	SU099374C	EO 636726 Sarkis Ziretsyan
14	4	9-26-22	2001 Toyota RAV4	7XCM847	SY036687C	EO 636726 Sarkis Ziretsyan
15	5	9-27-22	2005 Chevrolet Silverado C1500	2GCEC19T351234676	SY036693C	EO 636726 Sarkis Ziretsyan

16 29. The data analysis conducted on Respondent’s Smog Test Only facility for the period  
 17 of March 11, 2022 through September 27, 2022 shows that Respondent participated in a scheme  
 18 to perform at least five (5) fraudulent Smog Check inspections resulting in the issuance of five (5)  
 19 fraudulent electronic Smog Check Certificates of Compliance.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 30. Respondent’s ARD registration is subject to discipline pursuant to Code section  
 23 9884.7(a)(1), in that between March 11, 2022 and September 27, 2022, Respondent  
 24

1 made or authorized statements which he knew or in the exercise of reasonable care should have  
2 known to be untrue or misleading, as follows: Respondent certified that the vehicles set forth  
3 above in Table 1, had passed inspection and were in compliance with applicable laws and  
4 regulations. In fact, Respondent conducted the inspections on those vehicles using the clean  
5 plugging method in order to issue smog certificates of compliance, and did not test or inspect the  
6 vehicles as required by Health and Safety Code section 44012. Complainant hereby incorporates  
7 paragraphs 22-29 above as though set forth fully herein.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 31. Respondent's ARD registration is subject to discipline pursuant to Code section  
11 9884.7(a)(4), in that between March 11, 2022 and September 27, 2022, Respondent  
12 committed acts which constitute fraud by issuing electronic certificates of compliance for the  
13 vehicles set forth above in Table 1, without performing bona fide inspections of the emission  
14 control devices and systems on those vehicles, thereby depriving the People of the State of  
15 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
16 hereby incorporates paragraphs 22-29 above as though set forth fully herein.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with the Motor Vehicle Inspection Program)**

19 32. Respondent's station license is subject to discipline pursuant to Health and Safety  
20 Code section 44072.2(a), in that between March 11, 2022 and September 27, 2022, regarding the  
21 vehicles set forth above in Table 1, Respondent failed to comply with the following sections of  
22 that Code:

23 a. Section 44012: Respondent failed to ensure that the emission control tests were  
24 performed on the vehicles, in accordance with procedures prescribed by the department.

25 b. Section 44015: Respondent issued electronic certificates of compliance for the vehicles,  
26 without ensuring that the vehicles were properly tested and inspected to determine if they were in  
27 compliance with Health and Safety Code section 44012.

28 Complainant hereby incorporates paragraphs 22-29 above as though set forth fully herein.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 33. Respondent's station license is subject to discipline pursuant to Health and Safety  
4 Code section 44072.2(c), in that between March 11, 2022 and September 27, 2022, regarding the  
5 vehicles set forth above in Table 1, Respondent failed to comply with provisions of California  
6 Code of Regulations, title 16, as follows:

7 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued electronic  
8 smog certificates of compliance for those vehicles.

9 b. Section 3340.35, subdivision (c): Respondent issued electronic certificates of  
10 compliance even though those vehicles had not been inspected in accordance with section  
11 3340.42 of that Code.

12 c. Section 3340.41, subdivision (c): Respondent knowingly entered false information into  
13 the emissions inspection system for those vehicles.

14 d. Section 3340.42: Respondent failed to conduct the required smog tests and inspections  
15 on those vehicles in accordance with the Bureau's specifications.

16 Complainant hereby incorporates paragraphs 22-29 above as though set forth fully herein.

17 **FIFTH CAUSE FOR DISCIPLINE**

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

19 34. Respondent's station license is subject to discipline pursuant to Health and Safety  
20 Code section 44072.2(d), in conjunction with Health and Safety Code section 44072.10(c), in that  
21 between March 11, 2022 and September 27, 2022, regarding the vehicles set forth above in Table  
22 1, Respondent committed acts involving dishonesty, fraud or deceit whereby another was injured  
23 by issuing electronic certificates of compliance for those vehicles without performing bona fide  
24 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
26 Program. Complainant hereby incorporates paragraphs 22-29 above as though set forth fully  
27 herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 35. Respondent’s technician license is subject to discipline pursuant to Health and Safety  
4 Code section 44072.2(a), in that between March 11, 2022 and September 27, regarding the  
5 vehicles set forth above in Table 1 attributable to his technician license, he failed to comply with  
6 section 44012 of that Code in a material respect, as follows: Respondent failed to perform the  
7 emission control tests on those vehicles in accordance with procedures prescribed by the  
8 department. Complainant hereby incorporates paragraphs 22-29 above as though set forth fully  
9 herein.

10 **SEVENTH CAUSE FOR DISCIPLINE**

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

12 36. Respondent’s technician license is subject to discipline pursuant to Health and Safety  
13 Code section 44072.2(c), in that between March 11, 2022 and September 27, 2022, regarding the  
14 vehicles set forth above in Table 1 attributable to his technician license, he failed to comply with  
15 provisions of California Code of Regulations, title 16, as follows:

16 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued electronic  
17 smog certificates of compliance for those vehicles.

18 b. Section 3340.35, subdivision (c): Respondent issued electronic certificates of  
19 compliance even though those vehicles had not been inspected in accordance with section  
20 3340.42 of that Code.

21 c. Section 3340.41, subdivision (c): Respondent knowingly entered false information into  
22 the emissions inspection system for those vehicles.

23 d. Section 3340.42: Respondent failed to conduct the required smog tests and inspections  
24 on those vehicles in accordance with the Bureau's specifications.

25 Complainant hereby incorporates paragraphs 22-29 above as though set forth fully herein.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 37. Respondent’s technician license is subject to discipline pursuant to Health and Safety  
4 Code section 44072.2(d), in conjunction with Health and Safety Code section 44072.10(c), in that  
5 between March 11, 2022 and September 27, 2022, regarding the vehicles set forth above in Table  
6 1 attributable to his technician license, he committed acts involving dishonesty, fraud or deceit  
7 whereby another was injured by issuing electronic certificates of compliance without performing  
8 bona fide inspections of the emission control devices and systems on those vehicles, thereby  
9 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
10 Inspection Program. Complainant hereby incorporates paragraphs 22-29 above as though set  
11 forth fully herein.

12 **OTHER MATTERS**

13 38. Pursuant to Code section 9884.7, subdivision (c), the Bureau may refuse to validate,  
14 or may invalidate temporarily or permanently, the registrations for all places of business operated  
15 in this state by Sarkis Ziretsyan upon a finding that he has, or is, engaged in a course of repeated  
16 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

17 39. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License  
18 Number TC 288469, issued to Sarkis Ziretsyan, doing business as Auto Narbix Test Only Station,  
19 is revoked or suspended pursuant to a hearing, any additional license issued under Chapter 5 of  
20 Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise  
21 revoked or suspended by the director.

22 40. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License  
23 No. EO 636726 issued to Sarkis Ziretsyan is revoked or suspended pursuant to a hearing, any  
24 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code  
25 in the name of said licensee may be likewise revoked or suspended by the director.

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**PRAYER**

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

- 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 288469, issued to Sarkis Ziretsyan dba Auto Narbix Test Only Station;
- 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Sarkis Ziretsyan;
- 3. Revoking or suspending Smog Check, Test Only Station License Number TC 288469, issued to Sarkis Ziretsyan dba Auto Narbix Test Only Station;
- 4. Revoking or suspending Smog Check Inspector License Number EO 636726, issued to Sarkis Ziretsyan;
- 5. Revoking or suspending any other license issued pursuant to Chapter 5, Part 5, of Division 26 of the Health and Safety Code in the name of Sarkis Ziretsyan;
- 6. Ordering Sarkis Ziretsyan to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 7. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

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

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