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7

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

15 **ERSIN IRIC**
16 **DBA MARIN STAR SMOG**
77 San Pablo Smog
San Rafael Ca 94903

17 **Automotive Repair Dealer No. ARD 289814**
18 **Smog Check Station License no. TC 289814**

19 **ERSIN IRIC**
3550 Pacific Ave. #602
Livermore, CA 94550

20 **Smog Check Inspector License No. EO 635356**
21

Respondent.

Case No. 79/21-16013

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

22
23 **PARTIES**

24 1. Patrick Dorais (Complainant) brings this Accusation and Petition to Revoke
25 Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair
26 (Bureau), Department of Consumer Affairs.
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2. On or about March 7, 2018, the Bureau issued Automotive Repair Dealer Registration Number ARD289814 to Ersin Iric (Respondent); dba Marin Star Smog. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2023, unless renewed.

3. On or about March 21, 2018, the Bureau issued Smog Check Station License Number TC289814 to Respondent dba Marin Star Smog. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2023, unless renewed.

4. On or about March 29, 2013, the Bureau issued Advanced Emission Specialist Technician License Number EA 635356 to Respondent. The Advanced Emission Specialist Technician License was cancelled on November 10, 2014. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check Inspector License Number EO 635356, effective November 10, 2014. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2022, unless renewed.

5. In a disciplinary action titled "In the Matter of the Accusation against Chevrem Corporation, et al," Case No. 79/17-1198, the Bureau issued a Decision and Order effective April 28, 2021, in which Respondent's Smog Check Inspector License was revoked. However, the revocation was stayed and Respondent's Smog Check Inspector License was placed on probation for two (2) years with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by reference.

JURISDICTION PROVISIONS FOR ACCUSATION

6. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

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

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

4 9. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
5 expiration or suspension of a license by operation of law, or by order or decision of the Director
6 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
7 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
8 proceedings against the licensee, or to render a decision suspending or revoking the license.

9 10. Section 44072.8 of the Health and Safety Code states:

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

13 **STATUTORY AND REGULATORY PROVISIONS FOR ACCUSATION**

14 11. Section 9884.7 of the Code states:

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

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

24 (2) Causing or allowing a customer to sign any work order that does not
25 state the repairs requested by the customer or the automobile's odometer reading at
26 the time of repair.

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

 (4) Any other conduct which constitutes fraud.

 (5) Conduct constituting gross negligence.

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

 (7) Any willful departure from or disregard of accepted trade standards
for good and workmanlike repair in any material respect, which is prejudicial to

another without consent of the owner or his or her duly authorized representative.

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

(10) Conviction of a violation of Section 551 of the Penal Code.

Upon denying of registration, the director shall notify the applicant thereof, in writing, by personal service or mail addressed to the address of the applicant set forth in the application, and the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

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

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

12. Section 44072.2 of the Health and Safety Code states:

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

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

(b) Is convicted of any crime substantially related to the qualifications, functions, and duties of the licenseholder in question.

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

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

(e) Has misrepresented a material fact in obtaining a license.

(f) Aids or abets unlicensed persons to evade the provisions of this chapter.

(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his

1 or her duly authorized representative for a period of not less than three years after
2 completion of any transaction to which the records refer, or refuses to comply with a
3 written request of the director to make the records available for inspection.

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

6 13. Section 44012 of the Health and Safety Code states:

7 The test at the smog check stations shall be performed in accordance with
8 procedures prescribed by the department, pursuant to Section 44013, shall require, at
9 a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed
10 testing in all other program areas, and shall ensure all of the following:

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

14 (b) Motor vehicles are preconditioned to ensure representative and
15 stabilized operation of the vehicle's emission control system.

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

22 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative
23 system and crankcase ventilation system are tested to reduce any nonexhaust sources
24 of volatile organic compound emissions, in accordance with procedures prescribed by
25 the department.

26 (e) For diesel-powered vehicles, if the department determines that the
27 inclusion of those vehicles is technologically and economically feasible, a visual
28 inspection is made of emission control devices and the vehicle's exhaust emissions in
an idle mode or loaded mode are tested in accordance with procedures prescribed by
the department. The test may include testing of emissions of any or all of the
pollutants specified in subdivision (c) and, upon the adoption of applicable standards,
measurement of emissions of smoke or particulates, or both.

(f) A visual or functional check is made of emission control devices
specified by the department, including the catalytic converter in those instances in
which the department determines it to be necessary to meet the findings of Section
44001. The visual or functional check shall be performed in accordance with
procedures prescribed by the department.

(g) A determination as to whether the motor vehicle complies with the
emission standards for that vehicle's class and model-year as prescribed by the
department.

(h) The test procedures may authorize smog check stations to refuse the
testing of a vehicle that would be unsafe to test, or that cannot physically be
inspected, as specified by the department by regulation. The refusal to test a vehicle
for those reasons shall not excuse or exempt the vehicle from compliance with all
applicable requirements of this chapter.

14. Section 44015 of the Health and Safety Code states:

(a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5.

(3) A vehicle described in subdivision (c).

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

(c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit established under Section 44017 and that every defect specified by paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost limit specified in Section 44017.

(2) An economic hardship extension shall be issued, upon request of a qualified low-income motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the low-income vehicle owner would suffer an economic hardship if the extension is not issued, and that all appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section 44017.1 have been performed.

(d) No repair cost waiver or economic hardship extension shall be issued under any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that owner. However, a repair cost waiver or economic hardship extension may be issued for a motor vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as

determined by the department. For waivers or extensions issued in the program operative on or after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per owner.

(2) Upon initial registration of all of the following:

(A) A direct import motor vehicle.

(B) A motor vehicle previously registered outside this state.

(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

(D) A motor vehicle that has had an engine change.

(E) An alternate fuel vehicle.

(F) A specially constructed vehicle.

(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall be valid for 90 days.

(f) Except as provided in Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle dealer shall be responsible for having a smog check inspection performed on, and a certificate of compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle is sold and registered to a retail buyer, whichever occurs first.

(g) A test may be made at any time within 90 days prior to the date otherwise required.

15. Section 44032 of the Health and Safety Code states:

No person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person performing the test or repair is a qualified smog check technician and the test or repair is performed at a licensed smog check station. Qualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

16. Section 44059 of the Health and Safety Code states:

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

17. California Code of Regulations, title 16, section 3340.24, states:

(a) Any disciplinary or reinstatement proceeding under this article involving licensed stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5 (commencing with section 11500) of division 3, Title 2 of the Government Code.

1 (b) The bureau may suspend or revoke the license of or pursue other
2 legal action against a licensee, if the licensee knowingly and willfully resists, delays,
3 or obstructs any employee of the bureau or any employee of the quality assurance
4 contractor of the bureau in carrying out the lawful performance of his or her duties.

5 (c) The bureau may suspend or revoke the license of or pursue other
6 legal action against a licensee, if the licensee falsely or fraudulently issues or obtains
7 a certificate of compliance or a certificate of noncompliance.

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

11 18. California Code of Regulations, title 16, section 3340.30, states:

12 A smog check technician shall comply with the following requirements at
13 all times while licensed.

14 (a) A licensed technician shall inspect, test and repair vehicles in
15 accordance with section 44012 of the Health and Safety Code, section 44035 of the
16 Health and Safety Code, and section 3340.42 of this article.

17 (b) A licensed technician shall maintain on file with the bureau a correct
18 mailing address pursuant to section 3303.3 of Article 1 of this Chapter.

19 (c) A licensed technician shall notify the bureau in writing within two
20 weeks of any change of employment.

21 (d) A licensed technician whose license has expired shall immediately
22 cease to inspect, test, or repair failed vehicles.

23 19. California Code of Regulations, title 16, section 3340.42, states:

24 Smog check inspection methods are prescribed in the Smog Check
25 Manual, referenced by section 3340.45.

26 (a) All vehicles subject to a smog check inspection, shall receive one of
27 the following test methods:

28 (1) A loaded-mode test shall be the test method used to inspect 1976 -
1999 model-year vehicle, except diesel-powered, registered in the enhanced program
areas of the state. The loaded-mode test shall measure hydrocarbon, carbon
monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the
bureau's specifications referenced in subsection (a) of Section 3340.17 of this article.
The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to
this inspection shall be measured and compared to the emissions standards shown in
the Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints)
Table, dated March 2010, which is hereby incorporated by reference. If the emissions
standards for a specific vehicle are not included in this table then the exhaust
emissions shall be compared to the emissions standards set forth in TABLE I or
TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
emissions are less than or equal to the applicable emission standards specified in the
applicable table.

1 (2) A two-speed idle mode test shall be the test method used to inspect
2 1976 - 1999 model-year vehicles, except diesel-powered, registered in all program
3 areas of the state, except in those areas of the state where the enhanced program has
4 been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
5 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
6 contained in the bureau's specifications referenced in subsection (a) of Section
7 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
8 shall be measured and compared to the emission standards set forth in this section and
9 as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
10 measured emissions are less than or equal to the applicable emissions standards
11 specified in Table III.

12 (3) An OBD-focused test, shall be the test method used to inspect
13 gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles
14 1998 model-year and newer. The OBD test failure criteria are specified in section
15 3340.42.2.

16 (b) In addition to subsection (a), all vehicles subject to the smog check
17 program shall receive the following:

18 (1) A visual inspection of emission control components and systems to
19 verify the vehicle's emission control systems are properly installed.

20 (2) A functional inspection of emission control systems as specified in the
21 Smog Check Manual, referenced by section 3340.45, which may include an OBD
22 test, to verify their proper operation.

23 (c) The bureau may require any combination of the inspection methods in
24 sections (a) and (b) under any of the following circumstances:

25 (1) Vehicles that the department randomly selects pursuant to Health and
26 Safety Code section 44014.7 as a means of identifying potential operational problems
27 with vehicle OBD systems.

28 (2) Vehicles identified by the bureau as being operationally or physically
incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational
problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross
polluter standards are as follows:

(1) A gross polluter means a vehicle with excess hydrocarbon, carbon
monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
standards included in the tables described in subsection (a), as applicable.

(2) Vehicles with emission levels exceeding the emission standards for
gross polluters during an initial inspection will be considered gross polluters and the
provisions pertaining to gross polluting vehicles will apply, including, but not limited
to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of
compliance until the vehicle's emissions are reduced to or below the applicable
emissions standards for the vehicle included in the tables described in subsection (a),
as applicable. However, the provisions described in section 44017 of the Health and

1 Safety Code may apply.

2 (4) This subsection applies in all program areas statewide to vehicles
3 requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety
4 Code.

5 20. California Code of Regulations, title 16, section 3371, states:

6 No dealer shall publish, utter, or make or cause to be published, uttered,
7 or made any false or misleading statement or advertisement which is known to be
8 false or misleading, or which by the exercise of reasonable care should be known to
9 be false or misleading. Advertisements and advertising signs shall clearly show the
10 following:

11 (a) Firm Name and Address. The dealer's firm name and address as they
12 appear on the State registration certificate as an automotive repair dealer; and

13 (b) Telephone Number. If a telephone number appears in an
14 advertisement or on an advertising sign, this number shall be the same number as that
15 listed for the dealer's firm name and address in the telephone directory, or in the
16 telephone company records if such number is assigned to the dealer subsequent to the
17 publication of such telephone directory.

18 21. California Code of Regulations, title 16, section 3373, states:

19 No automotive repair dealer or individual in charge shall, in filling out an
20 estimate, invoice, or work order, or record required to be maintained by section
21 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
22 information which will cause any such document to be false or misleading, or where
23 the tendency or effect thereby would be to mislead or deceive customers, prospective
24 customers, or the public.

25 **COST RECOVERY FOR ACCUSATION**

26 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licensee to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

29 **UNDERCOVER OPERATION NUMBER ONE**

30 23. In October 2021, a Bureau Representative documented a 2009 Chevrolet (Chevrolet)
31 for use in an undercover operation. The Chevrolet was documented to fail a smog inspection due
32 to the removal of the Exhaust Gas Recirculation (EGR) System components. The Bureau
33 representative installed a non-approved EGR delete kit in place of the EGR valve.

24. On or about December 7, 2021, an undercover operator drove the Chevrolet to Respondent's Smog Check Station, Marin Star Smog, and requested a smog inspection from Respondent.

25. Respondent provided the operator with a work order. Respondent requested the operator enter her customer information and sign the work order. The operator signed the work order but did not receive a copy at that time.

26. The operator observed Respondent start the smog inspection on the Chevrolet. After the inspection, the operator paid Respondent \$100.00 and was provided pink and yellow invoices #10627 and a Vehicle Inspection Report (VIR).

27. Respondent entered "Pass" into the OIS for the Visual Inspection category "Exhaust Gas Recirculation (EGR)," when in fact the vehicle should have failed the visual inspection. Respondents caused a certificate of compliance to be issued for the Chevrolet. The VIR falsely stated that the smog inspection was performed in accordance with all bureau requirements.

FIRST CAUSE FOR DISCIPLINE

(False or misleading Statements- Registration)

28. Respondent has subjected his Registration to disciplinary action under section 9884.7, subdivision(a)(1), in that Respondent made false or misleading statements that they knew or should have known were false or misleading during Undercover Operation Number One as follows:

a. Respondent transmitted information to the Vehicle Information Database stating the Chevrolet passed the EGR visual inspection.

b. Respondent created a VIR stating the Chevrolet passed the EGR visual inspection.

c. The VIR stated that smog inspection was performed in accordance with all bureau requirements.

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Copy of Signed Documents)

29. Respondent has subjected his Registration to disciplinary action under section 9884.7, subdivision (a)(3), in that he failed to provide the operator with a copy of the signed work order at

1 the time it was signed. The circumstances are further described in the Undercover Operation
2 Number One section, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violation of Laws and Regulations-Registration)**

5 30. Respondent has subjected his Registration to disciplinary action under section 9884.7,
6 subdivision (a)(6), in that Respondent violated the following laws and regulations during
7 Undercover Operation Number One:

8 a. Respondent violated Code section 9884.9(a) by failing to provide the operator with a
9 written estimate prior to performing the smog inspection.

10 b. Respondent violated California Code of Regulations, Title 16, section 3340.24,
11 subdivision (c), in that Respondent falsely issued a certificate of compliance to the vehicle.

12 c. Respondent violated California Code of Regulations, Title 16, section 3340.35,
13 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
14 have all the required emission control equipment and devices installed and functioning correctly.

15 d. Respondent violated California Code of Regulations, Title 16, section 3340.42,
16 subdivision (b) in that Respondent failed to provide a proper visual inspection of a vehicle.

17 e. Respondent violated California Code of Regulations, Title 16, section 3340.42, in
18 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
19 that Respondent failed to provide a proper visual inspection on a vehicle as prescribed in the
20 Smog Check Manual.

21 f. Respondent violated California Code of Regulations, Title 16, section 3371, in that
22 Respondent made untrue or misleading statements as described in Undercover Operation Number
23 One.

24 g. Respondent violated California Code of Regulations, Title 16, section 3373, in that
25 Respondent made untrue or misleading statements on a Vehicle Inspection Report. The Vehicle
26 Inspection Report stated that the vehicle passed the EGR visual inspection visual inspection.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty or Deceit)**

3 31. Respondent has subjected his Smog Station license to disciplinary action under
4 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed acts
5 involving dishonesty or deceit whereby another was injured. The circumstances are described in
6 the Undercover Operation Number One section, above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violation of Laws and Regulations)**

9 32. Respondent has subjected his Smog Station license to disciplinary action under
10 Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that Respondent
11 violated the following laws and regulations during Undercover Operation Number One:

12 a. Respondent violated Health and Safety code section 44012, subdivision (f), in that
13 Respondent failed to perform a smog check on a vehicle according to the procedures prescribed
14 by the department. Respondent failed to perform a proper visual inspection.

15 b. Respondent violated Health and Safety code section 44015, subdivision (a)(1), in that
16 Respondent issued a certificate of compliance to a vehicle that had been tampered with.

17 c. Respondent violated California Code of Regulations, Title 16, section 3340.24,
18 subdivision (c), in that Respondent falsely issued a certificate of compliance to a vehicle.

19 d. Respondent violated California Code of Regulations, Title 16, section 3340.35,
20 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
21 have all the required emission control equipment and devices installed and functioning correctly.

22 e. Respondent violated California Code of Regulations, Title 16, section 3340.42,
23 subdivision (b) in that Respondent failed to perform a proper visual inspection of a vehicle.

24 f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in
25 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
26 that Respondent failed to perform a proper visual inspection on a vehicle as prescribed in the
27 Smog Check Manual.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty or Deceit)**

3 33. Respondent has subjected his Smog Inspector license to disciplinary action under
4 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed acts
5 involving dishonesty or deceit whereby another was injured. The circumstances are described in
6 Undercover Operation Number One section, above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Violation of Laws and Regulations)**

9 34. Respondent has subjected his Smog Inspector license to disciplinary action under
10 Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that Respondent
11 violated the following laws and regulations during Undercover Operation Number One:

12 a. Respondent violated Health and Safety code section 44012, subdivision (f), in that
13 Respondent failed to perform a smog check on a vehicle according to the procedures prescribed
14 by the department. Respondent failed to perform a proper visual inspection.

15 b. Respondent violated Health and Safety code section 44015, subdivision (a)(1), in that
16 Respondent issued a certificate of compliance to a vehicle that had been tampered with.

17 c. Respondent violated California Code of Regulations, Title 16, section 3340.24,
18 subdivision (c), in that Respondent falsely issued a certificate of compliance to a vehicle.

19 d. Respondent violated California Code of Regulations, Title 16, section 3340.35,
20 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
21 have all the required emission control equipment and devices installed and functioning correctly.

22 e. Respondent violated California Code of Regulations, Title 16, section 3340.42,
23 subdivision (b) in that Respondent failed to perform a proper visual inspection of a vehicle.

24 f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in
25 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
26 that Respondent failed to perform a proper visual inspection on a vehicle as prescribed in the
27 Smog Check Manual.

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1 **UNDERCOVER RUN NUMBER TWO**

2 35. In January 2022, a Bureau Representative documented a 2008 Chrysler (Chrysler) for
3 use in an undercover operation. The Chrysler was documented to fail a smog inspection due to
4 the installation of a non-approved aftermarket Innovative Performance Chip.

5 36. On or about March 1, 2022, an undercover operator drove the Chrysler to Marin Star
6 Smog and requested a smog inspection from Respondent.

7 37. Respondent provided the operator with a work order and requested the operator enter
8 his customer information and sign the work order. The operator signed the work order but did not
9 receive a copy at that time. The operator observed Respondent start the smog inspection on the
10 Chrysler. After the inspection, the operator paid Respondent \$88.00 and was provided pink and
11 yellow invoices #11268 and a Vehicle Inspection Report (VIR).

12 38. Respondent entered "Pass" into the OIS for the Visual Inspection category
13 "Computers, Sensors, Switches, and Wiring" when in fact the vehicle should have failed.
14 Respondent caused a certificate of compliance to be issued for a vehicle. The VIR falsely stated
15 that the smog inspection was performed in accordance with all bureau requirements.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(False or misleading Statements- Registration)**

18 39. Respondent has subjected his Registration to disciplinary action under section 9884.7,
19 subdivision(a)(1), in that Respondent made false or misleading statements that they knew or
20 should have known were false or misleading during Undercover Operation Number Two as
21 follows:

22 a. Respondent transmitted information to the Vehicle Information Database stating the
23 Chrysler passed the Computers, Sensors, Switches, and Wiring visual inspection.

24 b. Respondent created a VIR stating the Chrysler passed the Computers, Sensors,
25 Switches, and Wiring visual inspection.

26 c. The VIR stated that smog inspection was performed in accordance with all bureau
27 requirements.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Copy of Signed Documents)**

3 40. Respondent has subjected his Registration to disciplinary action under section 9884.7,
4 subdivision (a)(3), in that he failed to provide the operator with a copy of the signed work order at
5 the time it was signed. The circumstances are further described in the Undercover Operation
6 Number Two section, above.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(Violation of Laws and Regulations-Registration)**

9 41. Respondent has subjected his Registration to disciplinary action under section 9884.7,
10 subdivision (a)(6), in that Respondent violated the following laws and regulations during
11 Undercover Operation Number Two:

12 a. Respondent violated Code section 9884.9(a) by failing to provide the operator with a
13 written estimate prior to performing the smog inspection.

14 b. Respondent violated California Code of Regulations, Title 16, section 3340.24,
15 subdivision (c), in that Respondent falsely issued a certificate of compliance to a vehicle.

16 c. Respondent violated California Code of Regulations, Title 16, section 3340.35,
17 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
18 have all the required emission control equipment and devices installed and functioning correctly.

19 d. Respondent violated California Code of Regulations, Title 16, section 3340.42,
20 subdivision (b) in that Respondent failed to provide a proper visual inspection of a vehicle.

21 e. Respondent violated California Code of Regulations, Title 16, section 3340.42, in
22 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
23 that Respondent failed to provide a proper visual inspection on ta vehicle as prescribed in the
24 Smog Check Manual.

25 f. Respondent violated California Code of Regulations, Title 16, section 3371, in that
26 Respondent made untrue or misleading statements as described in Undercover Operation Two,
27 above.

28 g. Respondent violated California Code of Regulations, Title 16, section 3373, in that

Respondent made untrue or misleading statements on a Vehicle Inspection Report. The Vehicle Inspection Report stated that the vehicle passed the visual inspection.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty or Deceit)

42. Respondent has subjected his Smog Station license to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed acts involving dishonesty or deceit whereby another was injured. The circumstances are described in the Undercover Operation Number Two section, above.

TWELFTH CAUSE FOR DISCIPLINE

(Violation of Laws and Regulations)

43. Respondent has subjected his Smog Station license to disciplinary action under Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that Respondent violated the following laws and regulations during Undercover Operation Number Two:

a. Respondent violated Health and Safety code section 44012, subdivision (f), in that Respondent failed to perform a smog check on a vehicle according to the procedures prescribed by the department. Respondent failed to perform a proper visual inspection.

b. Respondent violated Health and Safety code section 44015, subdivision (a)(1), in that Respondent issued a certificate of compliance to a vehicle that had been tampered with.

c. Respondent violated California Code of Regulations, Title 16, section 3340.24, subdivision (c), in that Respondent falsely issued a certificate of compliance to a vehicle.

d. Respondent violated California Code of Regulations, Title 16, section 3340.35, subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not have all the required emission control equipment and devices installed and functioning correctly.

e. Respondent violated California Code of Regulations, Title 16, section 3340.42, subdivision (b) in that Respondent failed to perform a proper visual inspection of a vehicle.

f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in

1 that Respondent failed to perform a proper visual inspection on a vehicle as prescribed in the
2 Smog Check Manual.

3 **THIRTIETH CAUSE FOR DISCIPLINE**

4 **(Dishonesty or Deceit)**

5 44. Respondent has subjected his Smog Inspector license to disciplinary action under
6 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed acts
7 involving dishonesty or deceit whereby another was injured. The circumstances are described in
8 Undercover Operation Number Two section, above.

9 **FOURTEENTH CAUSE FOR DISCIPLINE**

10 **(Violation of Laws and Regulations)**

11 45. Respondent has subjected his Smog Inspector license to disciplinary action under
12 Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that Respondent
13 violated the following laws and regulations during Undercover Operation Number Two:

14 a. Respondent violated Health and Safety code section 44012, subdivision (f), in that
15 Respondent failed to perform a smog check on a vehicle according to the procedures prescribed
16 by the department. Respondent failed to perform a proper visual inspection.

17 b. Respondent violated Health and Safety code section 44015, subdivision (a)(1), in that
18 Respondent issued a certificate of compliance to a vehicle that had been tampered with.

19 c. Respondent violated California Code of Regulations, Title 16, section 3340.24,
20 subdivision (c), in that Respondent falsely issued a certificate of compliance to a vehicle.

21 d. Respondent violated California Code of Regulations, Title 16, section 3340.35,
22 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
23 have all the required emission control equipment and devices installed and functioning correctly.

24 e. Respondent violated California Code of Regulations, Title 16, section 3340.42,
25 subdivision (b) in that Respondent failed to perform a proper visual inspection of a vehicle.

26 f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in
27 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
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1 that Respondent failed to perform a proper visual inspection on a vehicle as prescribed in the
2 Smog Check Manual.

3 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

4 46. This Petition to Revoke Probation is brought before the Director of the Department of
5 Consumer Affairs (Director) for the Bureau of Automotive Repair under Probation Term and
6 Condition Number 1 of the Decision and Order In the Matter of the Accusation against Chevrem
7 Corporation, et al, Case No. 79/17-1198. That term and condition states:

8 Obey All Laws. During the period of probation, Respondent shall comply with all
9 federal and state statutes, regulations and rules governing all BAR registrations and
licenses held by Respondent.

10 **CAUSE TO REVOKE PROBATION**

11 (Obey All Laws)

12 47. At all times after the effective date of Respondent's probation, Condition One stated:

13 Obey All Laws. During the period of Probation Respondent shall comply with all
14 federal and state statutes, regulations and rules governing all BAR registrations and
licenses held by Respondent.

15 48. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition One, referenced above. Respondent violated state statutes, regulations and
17 rules governing the license held by Respondent as described in the fourteen Causes for Discipline,
18 above.

19 **OTHER MATTERS**

20 49. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
21 or place on probation the registration for all places of business operated in this state by
22 Respondent Ersin Iric, upon a finding that Respondent Ersin Iric has, or is, engaged in a course of
23 repeated and willful violations of the laws and regulations pertaining to an automotive repair
24 dealer.

25 50. Pursuant to Health & Safety Code section 44072.8, if Respondent's Smog Check
26 Station License No. TC289814 or Smog Check Inspector license EO635356 is revoked or
27 suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health
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1 and Safety Code in the name of said licensee may be likewise revoked or suspended by the
2 director.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
5 Accusation and Petition to Revoke Probation, and that following the hearing, the Director of the
6 Department of Consumer Affairs issue a decision:

7 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
8 No. 79/17-1198 and imposing the disciplinary order that was stayed thereby revoking Smog
9 Check Inspector License No. EO 635356 issued to Ersin Iric;

10 2. Revoking or suspending Automotive Repair Dealer Registration No. ARD289814,
11 issued to Ersin Iric; dba Marin Star Smog;

12 3. Revoking or suspending Smog Check, Test Only, Station License No. TC289814,
13 issued to Ersin Iric; dba Marin Star Smog;

14 4. Revoking or suspending Smog Check Inspector (EO) License No. EO 635356, issued
15 to Ersin Iric;

16 6. Revoking or suspending any additional Automotive Repair Dealer Registration,
17 Smog Check Station License, Smog Check Inspector License, or Smog Check Repair Technician
18 license, issued to Ersin Iric;

19 5. Ordering Ersin Iric to pay the Director of the Department of Consumer Affairs the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3; and

22 6. Taking such other and further action as deemed necessary and proper.

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24
25 DATED: As of Digital Signature Date

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

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