

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
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. *79/16 - 7927*

13 **BALSWICK QUICK SMOG**
14 **PAUL E. LANGLEY, OWNER**
379 N. Golden State Blvd.
Turlock, CA 95380
15 **Automotive Repair Dealer Registration**
No. **ARD 243971**
16 **Smog Check, Test Only Station License**
No. **TC 243971**

ACCUSATION

17 And

18 **ERIN BAILEY HOOVEN**
2204 E. Hawkeye
19 Turlock, CA 95380
Smog Check Inspector (EO) License
20 No. **633678**
Smog Check Repair Technician (EI) License
21 No. **633678**

22 Respondents.

23
24 Patrick Dorais ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation and Petition to Revoke Probation solely in his
27 official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of
28 Consumer Affairs.

1 **Automotive Repair Dealer Registration**

2 2. On a date uncertain in 2006, the Bureau issued Automotive Repair Dealer Number
3 ARD 243971 to Paul E. Langley (“Respondent Langley”), as owner of Balswick Quick Smog.
4 The Automotive Repair Dealer was in full force and effect at all times relevant to the charges
5 brought herein and will expire on February 28, 2017, unless renewed.

6 **Smog Check, Test Only Station License**

7 3. On or about April 25, 2006, the Bureau issued Smog Check, Test Only, Station
8 License Number TC 243971 (“Station License”) to Respondent Langley. The Station License
9 was in full force and effect at all times relevant to the charges brought herein and will expire on
10 February 28, 2017, unless renewed.

11 **Technician License**

12 4. On October 3, 2011, the Bureau issued Advanced Emission Specialist (EA)
13 Technician License No. 633678 to Erin Bailey Hooven (“Respondent Hooven”). Respondent
14 Hooven’s Advanced Emission Specialist Technician License was due to expire on May 31, 2013.
15 Pursuant to California Code of Regulations, title 16 (“Regulations”), section 3340.28(e),
16 Respondent Hooven elected to renew the license as Smog Check Inspector (EO) License No.
17 633678, and Smog Check Repair Technician (EI) License No. 633678, effective May 16, 2013.¹
18 The Advanced Emission Specialist (EA) Technician License was cancelled on May 16, 2013.
19 The Smog Check Inspector (EO) License was in full force and effect at all times relevant to the
20 charges brought herein and will expire on May 31, 2017, unless renewed. The Smog Check
21 Repair Technician (EI) License expired on May 31, 2015.

22 **STATUTORY AND REGULATORY PROVISIONS**

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

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

1 6. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
2 part:

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

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

12 ...

13 (4) Any other conduct that constitutes fraud.

14

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

17

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

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

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

5 8. Code section 118(b), states:

6 The suspension, expiration, or forfeiture by operation of law of a license issued
7 by a board in the department, or its suspension, forfeiture, or cancellation by order of
8 the board or by order of a court of law, or its surrender without the written consent of
9 the board, shall not, during any period in which it may be renewed, restored, reissued,
10 or reinstated, deprive the board of its authority to institute or continue a disciplinary
11 proceeding against the licensee upon any ground provided by law or to enter an order

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1 suspending or revoking the license or otherwise taking disciplinary action against the
2 licensee on any such ground.

3 9. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
4 "commission," "committee," "department," "division," "examining committee," "program," and
5 "agency." "License" includes certificate, registration or other means to engage in a business or
6 profession regulated by the Code.

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

10 11. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

15

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

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

18

19 12. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
20 suspension of a license by operation of law, or by order or decision of the Director
21 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
22 the Director of jurisdiction to proceed with disciplinary action.

23 13. Health & Saf. Code section 44072.8 states:

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

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14. Health & Saf. Code section 44072.10 states, in pertinent part:

....

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

....

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

15. Health & Saf. Code section 44024.5(a), states:

The department shall compile and maintain statistical and emissions profiles and data from motor vehicles that are subject to the motor vehicle inspection program. The department may use data from any source, including remote sensing data, in use data, and other motor vehicle inspection program data, to develop and confirm the validity of the profiles, to evaluate the program, and to assess the performance of smog check stations. The department shall undertake these requirements directly or seek a qualified vendor for these services.

16. Health & Saf. Code section 44037 states, in pertinent part:

(a) The department shall compile and maintain records, using the sampling methodology necessary to ensure their scientific validity and reliability, of tests and repairs performed by qualified smog check technicians at licensed smog check stations pursuant to this chapter on all of the following information:

(1) The motor vehicle identification information and the test data collected at the station.

....

(5) Data received and compiled through the use of the centralized computer database and computer network to be established pursuant to Section 44037.1, and any other information determined to be essential by the department for program enhancement to achieve greater efficiency, consumer protection, cost-effectiveness, convenience, or emission reductions . . .

17. Health & Saf. Code section 44037.1 states, in pertinent part:

(a) On or before January 1, 1995, the department shall design and establish the equipment necessary to operate a centralized computer data base and computer network that is readily accessible by all licensed smog check technicians on a real time basis.

(b) The centralized computer data base and network shall be designed with all of the following capabilities:

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1 (2) To provide smog check technicians and the department with information as
2 to the date and result of prior smog check tests performed on each vehicle to
3 discourage vehicle owners from shopping for certificates of compliance and to permit
the department to identify smog check stations for further investigation as potential
violators of this chapter.

4 (3) To provide the department with data on the failure rates and repair
5 effectiveness for vehicles of each make and model year on a statewide basis, and by
6 smog check station and technician, to facilitate identification of smog check stations
and technicians as potential violators of this chapter.

7

8 (8) To be compatible with the department's recordkeeping and compilation
requirements established by Section 44037.

9

10 (c) After January 1, 1995, each smog check station shall transmit vehicle data
11 emission test results to the department's centralized data base. Each smog check
12 station shall also transmit vehicle data and emission measurements made before and
after repair . . .

13 18. Title 16, California Code of Regulations, section 3340.17 states, in pertinent part:

14

15 (c) Vehicle data and test results from the OBD Inspection System (OIS) shall
16 be transmitted to the bureau's centralized database . . .

17 **COST RECOVERY**

18 19. Code section 125.3 provides, in pertinent part, that a Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 **UPDATED SMOG CHECK PROGRAM - ON BOARD DIAGNOSTIC SYSTEM**

23 20. On March 9, 2015, California's Smog Check Program was updated to keep pace with
24 ever-advancing technology. The program update requires the use of an On-Board Diagnostic
25 Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of
26 the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and
27 most 1998 and newer diesel vehicles instead of the BAR-97 emission inspection system (EIS)
28 used for most model year 1999 and older gasoline and hybrid vehicles and 1997 and older diesel

1 vehicles. The BAR-OIS system consists of a certified Data Acquisition Device (DAD),
2 computer, bar code scanner, and printer.

3 21. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the
4 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between
5 the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used
6 to input technician information, the vehicle identification number, and DMV renewal
7 information. The vehicle identification number (VIN) that is physically present on all vehicles is
8 required to be programmed into the vehicle's On-Board Diagnostics – Generation II (OBD II) on
9 2005 and newer vehicles, and on many occasions was programmed into the OBD II computer in
10 earlier model-years. The electronically programmed VIN is referred to as the "eVIN", is captured
11 by the Bureau during a smog check inspection, and must match the physical VIN on the vehicle.
12 The printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection
13 results and the Smog Check Certificate of Compliance Number for passing vehicles. Data
14 retrieved and recorded during an OIS smog check includes the eVIN, the communication
15 protocol,² and the number of Parameter Identifications (PID's)³.

16 22. As with the BAR-97 EIS, the technician also performs a visual and functional test on
17 the vehicle. The visual inspection of the emission control components verifies the required
18 emission control devices are present and properly connected and a functional test is performed of
19 the malfunction indicator light. The OIS software makes the determination whether or not the
20 vehicle passes the inspection based on the results of the OBD, visual, and functional tests.

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23 ² The OBD II communication protocol describes the specific manufacturer/vehicle
24 communication "language" used by the OBD II computer to communicate to scan tools and other
25 devices such as the BAR-OIS. The communication protocol is programmed into the OBD II
26 computer during manufacture and does not change.

27 ³ PID's are data points reported by the OBD II computer to the scan tool or BAR-OIS (for
28 example, engine speed (rpm), vehicle speed, engine temperature, etc.) The PID count is the
number of data points reported by the OBD II computer, is programmed during manufacture, and
does not change. Each make and model vehicle reports a specific number of PID counts; i.e., the
PID count does not vary for that make and model vehicle.

1 **BACKGROUND FACTS**

2 **Review of OIS Test Data**

3 23. Beginning on or about May 2, 2016, Bureau Representative "J.L." reviewed BAR-
4 OIS test data pertaining to smog inspections conducted at Respondent's facility. J.L. found that
5 Respondent Hooven performed smog inspections on eight vehicles identified below using a
6 method known as "clean plugging",⁴ resulting in the issuance of fraudulent certificates of
7 compliance for the vehicles.

8 **Vehicle #1**

9 24. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
10 on July 7, 2015, Respondent Hooven performed a smog inspection on a 2005 Toyota RAV4
11 (Vehicle 1), resulting in the issuance of Certificate of Compliance No. PS900396C. The BAR-
12 OIS test details for Vehicle 1 showed that the eVIN recorded during the inspection did not match
13 the VIN for Vehicle 1. J.L. reviewed the Comparative OIS Test Data for vehicle make and model
14 2005 Toyota RAV4 and found that the communication protocol and PID count recorded during
15 the smog check on Vehicle 1 were not consistent with the communication protocol and PID count
16 for that make and model. J.L. concluded that the DAD was not connected to Vehicle 1 during the
17 smog inspection, resulting in the issuance of a fraudulent smog certificate of compliance.

18 **Vehicle #2**

19 25. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
20 on September 28, 2015, Respondent Hooven performed a smog inspection on a 2008 GMC Sierra
21 K3500 (Vehicle 2), resulting in the issuance of Certificate of Compliance No. PW799849C. The
22 BAR-OIS test details for Vehicle 2 showed that the eVIN recorded during the inspection did not
23 match the VIN for Vehicle 2. J.L. reviewed the Comparative OIS Test Data for vehicle make and
24 model 2008 GMC Sierra K3500 and found that the communication protocol and PID count
25 recorded during the smog check on Vehicle 2 were not consistent with the communication

26 ⁴ Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another
27 source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog
28 certificate of compliance to another vehicle that is not in compliance with the Smog Check
Program and/or is not present for testing.

1 protocol and PID count for that make and model. J.L. concluded that the DAD was not connected
2 to Vehicle 2 during the smog inspection, resulting in the issuance of a fraudulent smog certificate
3 of compliance.

4 **Vehicle #3**

5 26. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
6 on November 13, 2015, Respondent Hooven performed a smog inspection on a 2007 Dodge Ram
7 2500 (Vehicle 3), resulting in the issuance of Certificate of Compliance No. QA202430C. The
8 BAR-OIS test details for Vehicle 3 showed that the eVIN recorded during the inspection did not
9 match the VIN for Vehicle 3. J.L. reviewed the Comparative OIS Test Data for vehicle make and
10 model 2007 Dodge Ram 2500 and found that the communication protocol and PID count
11 recorded during the smog check on Vehicle 3 were not consistent with the communication
12 protocol and PID count for that make and model. J.L. concluded that the DAD was not connected
13 to Vehicle 3 during the smog inspection, resulting in the issuance of a fraudulent smog certificate
14 of compliance.

15 **Vehicle #4**

16 27. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
17 on November 13, 2015, Respondent Hooven performed a smog inspection on a 2004 Dodge Ram
18 2500 Quad (Vehicle 4), resulting in the issuance of Certificate of Compliance No. QA202431C.
19 The BAR-OIS test details for Vehicle 4 showed that the eVIN recorded during the inspection did
20 not match the VIN for Vehicle 4. J.L. reviewed the Comparative OIS Test Data for vehicle make
21 and model 2004 Dodge Ram 2500 Quad and found that the communication protocol and PID
22 count recorded during the smog check on Vehicle 4 were not consistent with the communication
23 protocol and PID count for that make and model. J.L. concluded that the DAD was not connected
24 to Vehicle 4 during the smog inspection, resulting in the issuance of a fraudulent smog certificate
25 of compliance.

26 **Vehicle #5**

27 28. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
28 on January 4, 2016, Respondent Hooven performed a smog inspection on a 2005 Mini Cooper

1 (Vehicle 5), resulting in the issuance of Certificate of Compliance No. YV502933C. The BAR-
2 OIS test details for Vehicle 5 showed that the eVIN recorded during the inspection did not match
3 the VIN for Vehicle 5. J.L. reviewed the Comparative OIS Test Data for vehicle make and model
4 2005 Mini Cooper and found that the communication protocol and PID count recorded during the
5 smog check on Vehicle 5 were not consistent with the communication protocol and PID count for
6 that make and model. J.L. concluded that the DAD was not connected to Vehicle 5 during the
7 smog inspection, resulting in the issuance of a fraudulent smog certificate of compliance.

8 **Vehicle #6**

9 29. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
10 on January 7, 2016, Respondent Hooven performed a smog inspection on a 2008 Dodge Ram
11 2500 Quad (Vehicle 6), resulting in the issuance of Certificate of Compliance No. YV553394C.
12 The BAR-OIS test details for Vehicle 6 showed that the eVIN recorded during the inspection did
13 not match the VIN for Vehicle 6. J.L. reviewed the Comparative OIS Test Data for vehicle make
14 and model 2008 Dodge Ram 2500 Quad and found that the communication protocol and PID
15 count recorded during the smog check on Vehicle 6 were not consistent with the communication
16 protocol and PID count for that make and model. J.L. concluded that the DAD was not connected
17 to Vehicle 6 during the smog inspection, resulting in the issuance of a fraudulent smog certificate
18 of compliance.

19 **Vehicle #7**

20 30. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
21 on February 1, 2016, Respondent Hooven performed a smog inspection on a 2001 Ford
22 Expedition XLT (Vehicle 7), resulting in the issuance of Certificate of Compliance No.
23 YX390065C. The BAR-OIS test details for Vehicle 7 showed that the eVIN recorded during the
24 inspection did not match the VIN for Vehicle 7. J.L. reviewed the Comparative OIS Test Data
25 for vehicle make and model 2001 Ford Expedition XLT and found that the communication
26 protocol and PID count recorded during the smog check on Vehicle 7 were not consistent with the
27 communication protocol and PID count for that make and model. J.L. concluded that the DAD
28

1 was not connected to Vehicle 7 during the smog inspection, resulting in the issuance of a
2 fraudulent smog certificate of compliance.

3 **Vehicle #8**

4 31. J.L. reviewed BAR-OIS test data for Respondent Langley's facility that showed that
5 on February 5, 2016, Respondent Hooven performed a smog inspection on a 2003 Dodge Ram
6 (Diesel) (Vehicle 8), resulting in the issuance of Certificate of Compliance No. YX492445C. The
7 BAR-OIS test details for Vehicle 8 showed that the eVIN recorded during the inspection did not
8 match the VIN for Vehicle 8. J.L. reviewed the Comparative OIS Test Data for vehicle make and
9 model 2003 Dodge Ram (Diesel) and found that the communication protocol and PID count
10 recorded during the smog check on Vehicle 8 were not consistent with the communication
11 protocol and PID count for that make and model. J.L. concluded that the DAD was not connected
12 to Vehicle 8 during the smog inspection, resulting in the issuance of a fraudulent smog certificate
13 of compliance.

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Untrue or Misleading Statements)

16 32. Respondent Langley's registration is subject to discipline pursuant to Code
17 section 9884.7(a)(1), in that he made or authorized statements which he knew or in the exercise of
18 reasonable care should have known to be untrue or misleading. Specifically, Respondent Langley
19 certified that vehicles 1 through 8, identified in paragraphs 24 through 31, above, had passed
20 inspection and were in compliance with applicable laws and regulations. In fact, Respondent
21 Langley conducted smog inspections on the vehicles using clean-plugging methods in that he
22 substituted a different vehicle during the inspections in order to issue smog certificates of
23 compliance for the eight vehicles, and did not test or inspect the vehicles as required by Health &
24 Saf. Code section 44012.

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Fraud)

27 33. Respondent Langley's registration is subject to discipline pursuant to Code
28 section 9884.7(a)(4), in that he committed acts that constitute fraud by issuing electronic smog

1 certificates of compliance for vehicles 1 through 8, identified in paragraphs 24 through 31 above,
2 without ensuring that bona fide inspections were performed of the emission control devices and
3 systems on the vehicles, thereby depriving the People of the State of California of the protection
4 afforded by the Motor Vehicle Inspection Program.

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Motor Vehicle Inspection Program – Code Violations)

7 34. Respondent Langley's Station License is subject to discipline pursuant to Health &
8 Saf. Code section 44072.2(a), in that it failed to comply with the following sections of the Health
9 & Saf. Code, as follows:

10 a. **Section 44012(a)**: Respondent Langley failed to ensure that the emission control
11 tests were performed on vehicles 1 through 8, identified in paragraphs 24 through 31 above, in
12 accordance with procedures prescribed by the department.

13 b. **Section 44015**: Respondent Langley issued electronic smog certificates of
14 compliance for vehicles 1 through 8, identified in paragraphs 24 through 31 above, without
15 ensuring that the vehicles were properly tested and inspected to determine if it was in compliance
16 with Health & Saf. Code section 44012.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Failure to Comply with Regulations)

19 35. Respondent Langley's Station License is subject to discipline pursuant to Health &
20 Saf. Code section 44072.2(c), in that it failed to comply with provisions of the Regulations, as
21 follows:

22 a. **Section 3340.35(c)**: Respondent Langley issued electronic smog certificates of
23 compliance for vehicles 1 through 8, identified in paragraphs 24 through 31 above, even though
24 the vehicles had not been inspected in accordance with Regulation section 3340.42.

25 b. **Section 3340.42**: Respondent Langley failed to ensure that the required smog tests
26 were conducted on vehicles 1 through 8, identified in paragraphs 24 through 31 above, in
27 accordance with the Bureau's specifications.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud or Deceit)

3 36. Respondent Langley's Station License is subject to discipline pursuant to Health &
4 Saf. Code section 44072.2(d), in that Respondent Langley committed dishonest, fraudulent or
5 deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for
6 vehicles 1 through 8, identified in paragraphs 24 through 31 above, without ensuring that a bona
7 fide inspection was performed of the emission control devices and systems on the vehicles,
8 thereby depriving the people of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 (Motor Vehicle Inspection Program - Code Violations)

12 37. Respondent Hooven's smog check inspector license is subject to discipline pursuant
13 to Health & Saf. Code section 44072.2(a), in that he violated sections of that Code. Specifically,
14 Respondent Hooven failed to perform the emission control tests on vehicles 1 through 8,
15 identified in paragraphs 24 through 31 above, in accord with procedures prescribed by the
16 department.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 (Failure to Comply with Regulations)

19 38. Respondent Hooven's smog check inspector license is subject to discipline pursuant
20 to Health & Saf. Code section 44072.2(c), in that he failed to comply with provisions of the
21 Regulations, as follows:

22 a. **Section 3340.30(a)**: Respondent Hooven failed to inspect and test vehicles 1 through
23 8, identified in paragraphs 24 through 31 above, in accordance with Health & Saf. Code
24 sections 44012 and 44035, and Regulations, section 3340.42.

25 b. **Section 3340.42**: Respondent Hooven failed to conduct the required smog tests on
26 vehicles 1 through 8, identified in paragraphs 24 through 31 above, in accordance with the
27 Bureau's specifications.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 39. Respondent Hooven's technician licenses are subject to discipline pursuant to Health
4 & Saf. Code section 44072.2(d), in that he committed dishonest, fraudulent, or deceitful acts
5 whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1
6 through 8, identified in paragraphs 24 through 31 above, without performing bona fide
7 inspections of the emission control devices and systems on the vehicles, thereby depriving the
8 people of the State of California of the protection afforded by the Motor Vehicle Inspection
9 Program.

10 **MATTERS IN AGGRAVATION**

11 40. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges as follows:

13 **Balswick Quick Smog, Paul E. Langley, Owner**

14 a. On or about December 12, 2007, the Bureau issued Citation No. C08-0550 to
15 Respondent Langley for violation of Health & Saf. Code section 44012(f) (failure to perform a
16 visual/functional check of emission control devices according to procedures prescribed by the
17 department) and Regulation, section 3340.35(c) (issuing a certificate of compliance to a vehicle
18 that was improperly tested). On or about November 28, 2007, Respondent issued a certificate of
19 compliance to a Bureau undercover vehicle with a non-functional EGR valve. The Bureau
20 assessed civil penalties totaling \$500 against Respondent for the violations, and Respondent paid
21 the fine on or about January 10, 2008.

22 b. On or about May 29, 2008, the Bureau issued Citation No. C08-1050 against
23 Respondent for violation of Health & Saf. Code section 44012(f) and Regulation, section
24 3340.35(c). On or about May 23, 2008, Respondent issued a certificate of compliance to a
25 Bureau undercover vehicle with a missing positive crankcase ventilation (PCV) system. The
26 Bureau assessed civil penalties totaling \$1,000 against Respondent for the violations, and
27 Respondent paid the fine on or about July 14, 2008.

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1 OTHER MATTERS

2 41. Under Code section 9884.7(c), the Director may invalidate temporarily or
3 permanently or refuse to validate, the registrations for all places of business operated in this state
4 by Respondent Paul E. Langley, upon a finding that he has, or is, engaged in a course of repeated
5 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

6 42. Under Health & Saf. Code section 44072.8, if Smog Check, Test Only Station license
7 Number TC 243971, issued to Paul E. Langley, as owner of Balswick Quick Smog, is revoked or
8 suspended, any additional license issued under this chapter in the name of said licensee may be
9 likewise revoked or suspended by the director.

10 43. Under Health & Saf. Code section 44072.8, if Smog Check Inspector (EO) License
11 No. 633678, or Smog Check Repair Technician (EI) License No. 633678, issued to Erin Bailey
12 Hooven, is revoked or suspended, then any additional license issued under Chapter 5 of the
13 Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the
14 Director.

15 PRAYER

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

18 1. Revoking or suspending Automotive Repair Dealer Registration Number
19 ARD 243971, issued to Paul E. Langley, as owner of Balswick Quick Smog;

20 2. Revoking or suspending any other automotive repair dealer registration issued to
21 Paul E. Langley;

22 3. Revoking or suspending Smog Check, Test Only, Station License Number
23 TC 243971, issued to Paul E. Langley, as owner of Balswick Quick Smog;

24 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of Paul E. Langley;

26 5. Revoking or suspending Smog Check Inspector (EO) License No. 633678 (formerly
27 Advanced Emission Specialist Technician EA License No. 633678) issued to Erin Bailey
28 Hooven;

1 6. Revoking or suspending Smog Check Repair Technician (EI) License No. 633678
2 (formerly Advanced Emission Specialist Technician EA License No. 633678) issued to Erin
3 Bailey Hooven;

4 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
5 and Safety Code in the name of Erin Bailey Hooven;

6 8. Ordering Paul E. Langley and Erin Bailey Hooven to pay the Bureau of Automotive
7 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3; and,

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

10
11 DATED: 12-15-16

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

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