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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. 79/16-11437

13 **SURVJIT SINGH CHEEMA**  
2018 Tres Picos Drive  
Yuba City, California 95993

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

14 **Smog Check Inspector License No. EO 145056**  
15 **Smog Check Repair Technician License No. EI**  
16 **145056**

17 Respondent.

18  
19  
20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

24 2. In or about 2002, the Bureau issued Basic Area Technician License Number EB  
25 145056 to Survjit Singh Cheema ("Respondent"). The license was due to expire on December  
26 31, 2013, but was cancelled on January 16, 2014. Pursuant to California Code of Regulations,  
27 title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's  
28 election as Smog Check Inspector License Number EO 145056, effective January 2, 2014, and

1 Smog Check Repair Technician License Number EI 145056, effective January 16, 2014<sup>1</sup>.  
2 Respondent's Smog Check Repair Technician License and Smog Check Inspector License  
3 ("technician licenses") will expire on December 31, 2019, unless renewed.

#### 4 **JURISDICTION**

5 3. Business and Professions Code ("Code") section 9884.7 provides that the Director  
6 may revoke an automotive repair dealer registration.

7 4. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
8 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding  
9 against an automotive repair dealer or to render a decision temporarily or permanently  
10 invalidating (suspending or revoking) a registration

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

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

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

#### 21 **STATUTORY PROVISIONS**

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

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

1           9.       Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

13           11.       Section 44072.8 of the Health and Safety Code states:

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

17                                   **REGULATORY PROVISIONS**

18           12.       Section 3340.30 of the California Code of Regulations, title 16 states in pertinent  
19 part:

20                   “A licensed smog check inspector and/or repair technician shall comply  
21 with the following requirements at all times while licensed:

22                   (a) Inspect, test and repair vehicles, as applicable, in accordance with  
23 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety  
24 Code, and section 3340.42 of this article.”

25           13.       Section 3340.41(c) of the California Code of Regulations, title 16 states as follows:

26                   “(c) No person shall enter into the emissions inspection system any vehicle  
27 identification information or emission control system identification data for any vehicle  
other than the one being tested. Nor shall any person knowingly enter into the emissions  
28 inspection system any false information about the vehicle being tested.”

14. Section 3340.42 of the California Code of Regulations, title 16 states in pertinent part that a visual inspection of emission control components and systems must be performed to verify that the vehicle's emission control systems are properly installed; and that the smog check inspection methods to be used are prescribed in the Smog Check Manual.

#### **COST RECOVERY**

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

#### **UNDERCOVER OPERATION NO. 1 – FEBRUARY 12, 2016**

16. On or about February 12, 2016, a Bureau operator ("operator") drove a 2007 Jeep to Yuba Plaza Shell located in Yuba City, California, and requested a smog inspection. As part of the Bureau's documentation of the vehicle, the vehicle could not pass the visual portion of the smog inspection because the vehicle had an unapproved aftermarket innovative performance chip installed. Respondent performed the smog inspection on the vehicle and issued electronic Certificate of Compliance Number [REDACTED], certifying that he had tested and inspected the vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle had an unapproved aftermarket innovative performance chip installed.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Failure to Comply with Provisions of the Motor Vehicle Inspection Program)**

17. Respondent's technician licenses are subject to discipline under Health and Safety Code section 44072.2(a), in that on or about February 12, 2016, regarding the Jeep, he failed to comply with the following sections of that Code:

a. **Section 44012(f):** Respondent failed to perform a visual and/or functional check of the required emission control systems and devices on the vehicle in accordance with procedures prescribed by the department.

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b. **Section 44032:** Respondent failed to perform tests of emission control devices and systems on the vehicle in accordance with section 44012 of the Health and Safety Code.

**SECOND CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations)**

18. Respondent's technician licenses are subject to discipline under Health and Safety Code section 44072.2(c), in that on or about February 12, 2016, regarding the Jeep, he failed to comply with the following sections of the California Code of Regulations, title 16:

a. **Section 3340.30(a):** Respondent failed to inspect and test the Jeep in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

b. **Section 3340.41(c):** Respondent entered false information into the Emission Inspection System ("EIS") for electronic Certificate of Compliance Number [REDACTED] by entering "pass" for the visual portion of the smog inspection when, in fact, the vehicle could not have passed the visual portion of the inspection because the vehicle had an unapproved aftermarket innovation performance chip installed.

c. **Section 3340.42:** Respondent failed to conduct the required smog tests and inspections on the vehicle in accordance with the Bureau's specifications.

**THIRD CAUSE FOR DISCIPLINE**

**(Dishonesty, Fraud or Deceit)**

19. Respondent's technician licenses are subject to discipline under Health and Safety Code section 44072.2(d), in that on or about February 12, 2016, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance Number [REDACTED] for the Jeep without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

**UNDERCOVER OPERATION NO. 2 – FEBRUARY 16, 2016**

20. On or about February 16, 2016, a Bureau operator drove a 2008 Chrysler to Bridge Street Chevron, located in Yuba City, California, and requested a smog inspection. As part of the

Bureau's documentation of the vehicle, the vehicle could not pass the visual portion of the smog inspection because the vehicle had an unapproved aftermarket jet performance module device installed. Respondent performed the smog inspection on the vehicle and issued electronic Certificate of Compliance Number [REDACTED], certifying that he had tested and inspected the vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle had an unapproved aftermarket jet performance module device installed.

#### **FOURTH CAUSE FOR DISCIPLINE**

##### **(Failure to Comply with Provisions of the Motor Vehicle Inspection Program)**

21. Respondent's technician licenses are subject to discipline under Health and Safety Code section 44072.2(a), in that on or about February 16, 2016, regarding the Chrysler, he failed to comply with the following sections of that Code:

a. **Section 44012(f):** Respondent failed to perform a visual inspection of the required emission control systems and devices on the vehicle in accordance with procedures prescribed by the department.

b. **Section 44032:** Respondent failed to perform tests of emission control devices and systems on the vehicle in accordance with section 44012 of the Health and Safety Code.

#### **FIFTH CAUSE FOR DISCIPLINE**

##### **(Failure to Comply with Regulations)**

22. Respondent's technician licenses are subject to discipline under Health and Safety Code section 44072.2(c), in that on or about February 16, 2016, regarding the Chrysler, he failed to comply with the following sections of the California Code of Regulations, title 16:

a. **Section 3340.30(a):** Respondent failed to inspect and test the Chrysler in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

b. **Section 3340.41(c):** Respondent entered false information into the Emission Inspection System ("EIS") for electronic Certificate of Compliance Number [REDACTED] by entering "pass" for the visual portion of the smog inspection when, in fact, the vehicle could not

1 have passed the visual portion of the inspection because the vehicle had an unapproved  
2 aftermarket jet performance module device installed.

3 c. **Section 3340.42:** Respondent failed to conduct the required smog tests and  
4 inspections on the vehicle in accordance with the Bureau's specifications.

5 **SIXTH CAUSE FOR DISCIPLINE**

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

7 23. Respondent's technician licenses are subject to discipline under Health and Safety  
8 Code section 44072.2(d), in that on or about February 16, 2016, he committed acts involving  
9 dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of  
10 Compliance Number [REDACTED] for the Chrysler without performing a bona fide inspection of  
11 the emission control devices and systems on that vehicle, thereby depriving the  
12 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
13 Program.

14 **PRIOR CITATIONS**

15 24. To determine the degree of discipline, if any, Complainant alleges the following:

16 a. On or about August 6, 2014, the Bureau issued Citation No. M2014-1105 against  
17 Respondent's Smog Check Inspector and Smog Check Repair Technician licenses for violations  
18 of Health and Safety Code section 44032 (failure to perform tests and inspections in accordance  
19 with Health and Safety Code section 44012), and California Code of Regulations, title 16, section  
20 3340.30(a) (inspect, test, and repair vehicles in accordance with Health and Safety Code sections  
21 44012 and 44035, and California Code of Regulations, title 16, section 3340.42) for issuing a  
22 certificate of compliance to a Bureau undercover vehicle with a missing positive crankcase  
23 ventilation components. Respondent was required to attend an 8-hour training course. On or  
24 about September 8, 2014, Respondent completed the required training course.

25 b. On or about September 4, 2014, the Bureau issued Citation No. M2014-1170 against  
26 Respondent's Smog Check Inspector and Smog Check Repair Technician licenses for violations  
27 of Health and Safety Code section 44032 (failure to perform tests and inspections in accordance  
28 with Health and Safety Code section 44012), and California Code of Regulations, title 16, section

1 3340.30(a) (inspect, test, and repair vehicles in accordance with Health and Safety Code sections  
2 44012 and 44035, and California Code of Regulations, title 16, section 3340.42) for issuing a  
3 certificate of compliance to a Bureau undercover vehicle with a missing/defective evaporative  
4 emission system. Respondent was required to attend a 28-hour training course and pay a civil  
5 penalty in the amount of \$500. On or about March 7, 2016, Respondent paid the civil penalty.

6 **OTHER MATTERS**

7 25. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
8 License Number EO 145056 and Smog Check Repair Technician License Number EI 145056,  
9 issued to Survjit Singh Cheema, is revoked or suspended, any additional license issued under  
10 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may  
11 be likewise revoked or suspended by the Director.

12 **PRAYER**

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

- 15 1. Revoking, suspending, or placing on probation Smog Check Repair Technician  
16 License Number EI 145056, issued to Survjit Singh Cheema;
- 17 2. Revoking, suspending, or placing on probation Smog Check Inspector License  
18 Number EO 145056, issued to Survjit Singh Cheema;
- 19 3. Revoking, suspending, or placing on probation any additional license issued under  
20 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Survjit Singh  
21 Cheema;
- 22 4. Ordering Survjit Singh Cheema to pay the Director of Consumer Affairs the  
23 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
24 125.3; and,

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

DATED: February 2, 2018

Patrick Dorais

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

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