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

11
12 In the Matter of the Accusation Against:

Case No. 79/17-15365

13 **GURPREET SINGH**

14 1532 Blackbird Place
Lodi, CA 95240

**ACCUSATION AND
PETITION TO REVOKE PROBATION**

15 Mailing Address:
305 W. Lodi Ave.
16 Lodi, CA 95240

17 **Smog Check Inspector License**
No. EO 153759
18 **Smog Check Repair Technician License**
No. EI 153759
19 **Brake Adjuster License No. BA 153759,**
Class C
20 **Lamp Adjuster License No. LA 153759,**
Class A

21 and

22 Petition to Revoke Probation Against:

23 **Smog Check Inspector License No. EO**
24 **153759**
25 **Smog Check Repair Technician License No.**
EI 153759

26 Respondent.
27
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1 Patrick Dorais (“Complainant”) alleges:

2 **PARTIES**

3 1. Complainant brings this Accusation and Petition to Revoke Probation solely in his
4 official capacity as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of
5 Consumer Affairs.

6 **Smog Check Inspector (EO)/Smog Check Repair Technician (EI) Licenses**

7 2. In 2006, the Bureau issued Advanced Emission Specialist Technician License No. EA
8 153759 to Gurpreet Singh (“Respondent”). Respondent’s technician license expired on
9 September 30, 2012. Pursuant to California Code of Regulations, title 16 (“Regulations”), section
10 3340.28(e), and effective October 16, 2012, Respondent elected to renew the license as Smog
11 Check Inspector License Number EO153759 and Smog Check Repair Technician License EI
12 153759.¹ The Smog Check Inspector and Smog Check Repair Technician Licenses were in effect
13 at all times relevant to the charges brought herein and will expire on September 30, 2018, unless
14 renewed.

15 **Brake Adjuster License**

16 3. On or about September 25, 2017, the Bureau issued Brake Adjuster License No. BA
17 153759, Class C, to Respondent. The Brake Adjuster License will expire on September 30, 2021,
18 unless renewed.

19 **Lamp Adjuster License**

20 4. On or about October 27, 2017, the Bureau issued Lamp Adjuster License No. LA
21 153759, Class A, to Respondent. The Lamp Adjuster License will expire on September 30, 2021,
22 unless renewed.

23 **Disciplinary Action**

24 5. In a disciplinary action entitled *In the Matter of the Accusation Against Gurpreet*
25 *Singh, dba Alpine Smog and Gurpreet Singh*, Case No. 79/15-87, the Director of the Department

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27 ¹ Effective August 1, 2012, Regulations, sections 3340.28, 3340.29, and 3340.30 were
28 amended to implement a license restructure from the Advanced 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 of Consumer Affairs adopted a *Stipulated Settlement and Disciplinary Order*, effective July 22,
2 2015 (the "Decision"). The Decision revoked Respondent's Smog Check Inspector License
3 Number EO 153759 and Smog Check Repair Technician License Number EI 153759; however,
4 the revocations were stayed and the licenses were placed on probation for three years with certain
5 terms and conditions.

6 ACCUSATION

7 JURISDICTION

8 6. This Accusation is brought before the Bureau under the authority of the following
9 laws.

10 7. Business and Professions Code ("Code") section 9889.1 provides, in pertinent part,
11 that the Director may suspend or revoke any license issued under Articles 5 and 6 (commencing
12 with section 9887.1) of the Automotive Repair Act.

13 8. Bus. & Prof. Code section 9887.1 states:

14 The director shall have the authority to issue licenses for official lamp and
15 brake adjusting stations and shall license lamp and brake adjusters. The licenses shall
16 be issued in accordance with this chapter and regulations adopted by the director
17 pursuant thereto. The director shall establish by regulation the terms of adjusters'
18 licenses as are necessary for the practical administration of the provisions relating to
19 adjusters, but those terms shall not be for less than one nor more than four years.
Licenses may be renewed upon application and payment of the renewal fees if the
application for renewal is made within the 30-day period prior to the date of
expiration. Persons whose licenses have expired shall immediately cease the activity
requiring a license . . .

20 9. Bus. & Prof. Code section 9889.9 states:

21 When any license has been revoked or suspended following a hearing under the
22 provisions of this article, any additional license issued under Articles 5 and 6 of this
23 chapter in the name of the licensee may be likewise revoked or suspended by the
director.

24 10. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the expiration or
25 suspension of a license by operation of law or by order or decision of the Director or a court of
26 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
27 proceed with any disciplinary proceedings.

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1 11. Code section 118(b) states:

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

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

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

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

21 15. Health & Saf. Code section 44072.8 states:

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

25 **STATUTORY AND REGULATORY PROVISIONS**

26 16. Code section 9889.3 states, in pertinent part:

27 The director may suspend, revoke, or take other disciplinary action against a
28 license as provided in this article [Article 7 (commencing with section 9889.1) of the
Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

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

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

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:

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

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

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

8 18. Health & Saf. Code section 44072.10(c) states, in pertinent part:

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

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

15 19. California Code of Regulations, Title 16, section 3340.30(a) states, in pertinent part:

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

18 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
19 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code,
20 and section 3340.42 of this article.

21 20. California Code of Regulations, Title 16, section 3340.41(c) states, in pertinent part:

22 (c) No person shall enter into the emissions inspection system any vehicle
23 identification information or emission control system identification data for any
24 vehicle other than the one being tested. Nor shall any person knowingly enter into the
25 emissions inspection system any false information about the vehicle being tested.

26 21. California Code of Regulations, Title 16, section 3340.42 states:

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

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

(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.

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

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

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

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

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

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

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

(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 pollutants 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.

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

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

8 **COST RECOVERY**

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

13 **UNDERCOVER OPERATION – SEPTEMBER 14, 2017**

14 23. In or around July or August 2017, a Bureau representative installed an unapproved
15 aftermarket add on device on the mass air flow sensor of the Bureau's 2002 Ford. With the
16 installation of the unapproved aftermarket add on device, the vehicle could not pass a properly
17 performed smog check test.

18 24. On or about September 14, 2017, an undercover operator with the Bureau (the
19 "operator") took the 2002 Ford to Alpine Smog and Auto Sales located in Lodi, California, and
20 requested a smog inspection. After the inspection was completed, the operator paid the facility
21 \$50 and received a copy of invoice No. 7817 and a vehicle inspection report ("VIR"). The VIR
22 indicated that Respondent performed a smog inspection on the vehicle. That same day electronic
23 Smog Certificate of Compliance No. HF236776C was issued for the vehicle.

24 25. On or about October 18, 2017, a Bureau representative inspected the vehicle and
25 found that the vehicle could not have passed a smog test because the unapproved aftermarket add
26 on device had been installed on the vehicle's mass air flow sensor.

27 **FIRST CAUSE FOR DISCIPLINE**

28 (Motor Vehicle Inspection Program – Code Violations)

26 26. Respondent's smog check inspector and repair technician licenses are subject to
27 discipline pursuant to Health & Saf. Code section 44072.2(a), in that on or about September 14,
28 2017, in regards to the Bureau's 2002 Ford, he violated sections of that Code as follows:

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

3 b. **Section 44032**: Respondent failed to perform tests of the emission control devices
4 and systems on the vehicle in accordance with Code section 44012, in that the vehicle was
5 precluded from passing a lawful smog inspection because an unapproved aftermarket add-on
6 device had been installed on the vehicle's mass air flow sensor.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Motor Vehicle Inspection Program – Regulatory Violations)

9 27. Respondent's smog check inspector and repair technician licenses are subject to
10 discipline pursuant to Health & Saf. Code section 44072.2(c), in that on or about September 14,
11 2017, in regards to the Bureau's 2002 Ford, Respondent failed to comply with provisions of
12 Regulations, as follows:

13 a. **Section 3340.30(a)**: Respondent failed to inspect and test the vehicle in accordance
14 with Health & Saf. Code sections 44012 and 44035.

15 b. **Section 3340.41(c)**: Respondent knowingly entered false information into the
16 emission inspection system.

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

19 **THIRD CAUSE FOR DISCIPLINE**

20 (Dishonesty, Fraud or Deceit)

21 28. Respondent's smog check inspector and smog check repair licenses are subject to
22 discipline pursuant to Health & Saf. Code section 44072.2(d), in that on or about September 14,
23 2017, he committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing
24 an electronic smog certificate of compliance for the Bureau's 2002 Ford without performing a
25 bona fide inspection of the emission control devices and systems on the vehicle, thereby
26 depriving the People of the State of California of the protection afforded by the Motor Vehicle
27 Inspection Program.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 29. Respondent's brake and lamp adjuster licenses are subject to discipline pursuant to
4 Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts whereby
5 another was injured, as identified in paragraph 28, above.

6 **PETITION TO REVOKE PROBATION**

7 30. Complainant incorporates by reference as though fully set forth herein the allegations
8 contained in paragraphs 1 through 29 above.

9 31. Condition Number 8 of Respondent's probation provides that should the Director
10 determine that Respondent has failed to comply with the terms and conditions of probation, the
11 Department may, after giving notice and opportunity to be heard, suspend or revoke the license.

12 32. Grounds exist to revoke Respondent's probation and reimpose the order of revocation
13 of his Smog Check Inspector and Smog Check Repair Technician licenses, as set forth below.

14 **CAUSE TO REVOKE PROBATION**

15 (Failure to Obey All Laws)

16 33. Condition 2 of Respondent's probation states that Respondent, "shall comply with all
17 statutes, regulations and rules governing automotive inspections, estimates and repairs."

18 34. Respondent's probation is subject to revocation in that he failed to comply with all
19 statutes, regulations, and rules governing automotive inspections, as set forth above in paragraphs
20 23 through 29.

21 **OTHER MATTERS**

22 35. Under Health & Saf. Code section 44072.8, if Smog Check Inspector License No.
23 EO 153759, or Smog Check Repair Technician License No. EI 153759, issued to Gurpreet Singh,
24 is revoked or suspended, then any additional license issued under Chapter 5 of Part 5 of Division
25 26 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended
26 by the Director.

27 36. Under Code section 9889.9, Brake Adjuster License No. BA 153759, Class C, issued
28 to Gurpreet Singh is revoked or suspended, any additional license issued under Division 3,

Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked or suspended by the Director.

37. Under Code section 9889.9, if Lamp Adjuster License No. LA 153759 Class A, issued to Gurpreet Singh is revoked or suspended, any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Smog Check Inspector License No. EO 153759 and Smog Check Repair Technician License No. EI 153759 issued to Gurpreet Singh;
2. Revoking probation and reimposing the order of revocation of Smog Check Inspector License No. EO 153759 and Smog Check Repair Technician License No. EI 153759 issued to Gurpreet Singh
3. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Gurpreet Singh;
4. Revoking or suspending Brake Adjuster License No. BA 153759 issued to Gurpreet Singh;
5. Revoking or suspending Lamp Adjuster License No. LA 153759 issued to Gurpreet Singh;
6. Revoking or suspending any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Business and Professions Code, in the name of Gurpreet Singh;
7. Ordering Gurpreet Singh to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and;

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1 8. Taking such other and further action as deemed necessary and proper.

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3 DATED: March 16, 2018



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

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