1 2 3 4 5 6	XAVIER BECERRA Attorney General of California SHAWN P. COOK Supervising Deputy Attorney General MARIO CUAHUTLE Deputy Attorney General State Bar No. 305067 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 269-6615 Facsimile: (213) 897-2804 Attorneys for Complainant	
8	BEFORE THE	
9	DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU OF AUTOMOTIVE REPAIR	
10	STATE OF CALIFORNIA	L
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12	In the Matter of the Accusation Against:	Case No. 79/18-5104
13 14	JON KAYAJIAN DBA SMOG STOP & REPAIR 8370 Sunland Blvd.	ACCUSATION
15	Sun Valley, CA 91352	
16	Automotive Repair Dealer Registration No. ARD 278017	
17	Smog Check Station License No. RC 278017 STAR Station Certified	a
18 19	Lamp Station License No. LS 278017, Class A Brake Station License No. BS 278017, Class C	
20	and	a e
21	JON KAYAJIAN	ħ
22	8346 Clybourn Ave. Sun Valley, CA 91352	
23	Smog Check Inspector License No. EO 636082	
24	Smog Check Repair Technician License No. EI 636082 Brake Adjuster License No. BA 636082, Class C	
25	Lamp Adjuster License No. LA 636082, Class A	9
26	Respondents.	
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PARTIES/LICENSE INFORMATION

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

Jon Kayajian dba Smog Stop & Repair

- 2.e On or about September 29, 2014, the Bureau of Automotive Repair issued Automotivee Repair Dealer Registration Number ARD 278017 to Jon Kayajian dba Smog Stop & Repair (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.
- 3.e On or about September 24, 2015, the Bureau of Automotive Repair issued Smog Checke Station License Number RC 278017 to Jon Kayajian dba Smog Stop & Repair. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.
- 4.e On or about October 2, 2015, the Bureau of Automotive Repair issued STAR Statione Certification to Jon Kayajian dba Smog Stop & Repair. The STAR Station certification will remain active unless the Automotive Repair Dealer registration and/or Smog Check Station license is revoked, canceled, licenses become delinquent or certification is invalidated.
- 5.e On or about September 21, 2015, the Bureau of Automotive Repair issued Lampe Station License Number LS 278017 to Jon Kayajian dba Smog Stop & Repair. The Lamp Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.
- 6.e On or about September 24, 2015, the Bureau of Automotive Repair issued Braked Station License Number BS 278017 to Jon Kayajian dba Smog Stop & Repair. The Brake Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

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Jon Kayajian

- 7.e On or about September 27, 2013, the Bureau of Automotive Repair issued Smog Checke Inspector License Number EO 636082 to Jon Kayajian (Respondent Kayajian). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.
- 8.e On or about November 13, 2017, the Bureau of Automotive Repair issued Smog Checke Repair Technician License Number EI 636082 to Respondent Kayajian. The Smog Check Repair Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.
- 9. On or about May 21, 2015, the Bureau of Automotive Repair issued Brake Adjustere License Number BA 636082 to Respondent Kayajian. The Brake Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2022, unless renewed.
- 10.e On or about July 13, 2015, the Bureau of Automotive Repair issued Lamp Adjustere License Number LA 636082 to Respondent Kayajian. The Lamp Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.

JURISDICTION

- 11.e This Accusation is brought before the Director of the Department of Consumer Affairse (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
- 12.e Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that the Director may revoke an automotive repair dealer registration.
- 13.e Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of activation shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

another is injured ...

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

COST RECOVERY

25.e Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may requeste the administrative law judge to direct a licentiate 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.

SMOG CHECK PROGRAM

26.e California's Smog Check Program requires owners of most motor vehicles, in thee enhanced and basic areas of the State, to subject their vehicles to a Smog Check inspection where they would receive a Certificate of Compliance. Said required inspection is to be performed every two years, when renewing their registration, and also when the vehicle's title is transferred. These inspections are performed by Smog Check Inspectors at Smog Test Stations, both of which are licensed by the Bureau. The Smog Check Program is designed and intended to reduce air pollution by identifying and requiring the repair of polluting motor vehicles.

INQUIRY INTO THE SMOG CHECK ACTIVITIES OF JON KAYAJIAN DBA SMOG STOP & REPAIR

27.e On or around March 13, 2018, a Program Representative for the Bureau conducted ac detailed review of the Bureau's Vehicle Information Data (VID) for Smog Check inspections performed at Respondent Smog Stop & Repair. The review showed a pattern of vehicles being certified with a different electronic vehicle identification number (eVIN) as substitutes for the vehicles purportedly being tested. Review into the Smog Check activities at Respondent Smog

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Stop & Repair revealed that four (4) Smog Check Certificates of Compliance were issued to vehicles using the clean plugging method¹.

#1 2011 TOYOTA TACOMA DOUBLE CAB

28.0 On May 27, 2017, Respondent Kayajian issued a Smog Certificate of Compliance to ab 2011 Toyota Tacoma Double Cab, VIN #5TFJX4GNXBX002325. The On-Board Diagnostic Inspection System (OIS) data for this vehicle indicates that the eVIN was transmitted as #5TEJU62N88Z483060. Additional OIS data indicates that VIN #5TEJU62N88Z483060 corresponds to a 2008 Toyota Double Cab Prerunner, which was certified by Ara Eskenian at Smog Stop & Repair on May 30, 2017. This 2008 Toyota was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2011 Toyota.

#2 2009 NISSAN ALTIMA 2.5

29.0 On June 1, 2017, Respondent Kayajian issued a Smog Certificate of Compliance to ao 2009 Nissan Altima 2.5, VIN #1N4AL21E99N402896. The OIS data for this vehicle indicates that the eVIN was transmitted as #1C6RR6KT2DS716651. Additional OIS data indicates that VIN #1C6RR6KT2DS716651 corresponds to a 2013 Dodge Ram 1500 ST, which was certified by Respondent Kayajian at Smog Stop & Repair on June 1, 2017. This 2013 Dodge was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2009 Nissan.

#3 2008 Toyota Prius

30.0 On July 19, 2017, Respondent Kayajian issued a Smog Certificate of Compliance to accompliance to accompliance to accompliance Prius, VIN #JTDKB20U787720934. The OIS data for this vehicle indicates that the eVIN was transmitted as #JTDKB20U293481236. Additional OIS data indicates that VIN #JTDKB20U293481236 corresponds to a 2009 Toyota Prius, which was certified by Respondent

¹ "Clean Plugging" is a method by which another vehicle's properly functioning On-Board Diagnostics (OBDII) functional test system, or another source, is used to generate passing data readings or diagnostic information for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance and or not present for testing.

Kayajian at Smog Stop & Repair on August 2, 2017. This 2009 Toyota was the vehicle used to generate the Fraudulent Smog Certificate of Compliance for the 2008 Prius.

#4 2015 Toyota Tacoma Access Cab

31.e On November 3, 2017, Respondent Kayajian issued a Smog Certificate of Compliancee to a 2015 Toyota Tacoma Access Cab, VIN #5TFTX4CN8FX056517. The OIS data for this vehicle indicates that the eVIN was transmitted as #5TFTX4CN5FX048536. Additional OIS data indicates that VIN #5TFTX4CN5FX048536 corresponds to a different Toyota Tacoma Access Cab, which was certified by Ara Eskenian at Smog Stop & Repair on December 4, 2017. The other Toyota was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the Toyota on November 3, 2017.

UNDERCOVER OPERATION: 2005 HONDA

32.e On October 16, 2018, an operator of the Bureau (operator) took the Bureau's 2005e Honda (2005 Honda) to Smog Brake & Lamp and requested a Smog Check Inspection. The catalytic converter had been removed from the 2005 Honda. The 2005 Honda was inspected and certified under the Smog Check Inspector license of Respondent Kayajian as indicated by the Vehicle Inspection Report (VIR) from Bureau records and was issued Certificate of Compliance

The operator paid \$60 for the Smog Check Inspection and received a copy of invoice

and a VIR.

33.e On November 15, 2018, the Bureau re-inspected the 2005 Honda and verified the catalytic converter was still missing.

FIRST CAUSE FOR DISCIPLINE

(Fraud)

34.e Respondent Smog Stop & Repair's registration is subject to disciplinary actione pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:

a. Respondent issued electronic smog certificates of compliance for a 2011 Toyotae Tacoma, a 2009 Nissan Altima 2.5, a 2008 Toyota Prius, a 2015 Toyota Tacoma Access Cab and 2005 Honda without ensuring that bona fide inspections were performed of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

35.e Respondent Smog Stop & Repair's Brake and Lamp station license is subject toe disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 27 through 33 above.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

36.e Respondent Smog Stop & Repair's smog check station license is subject to disciplinarye action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the following sections of that Code:

a. Section 44015: Respondent issued five (5) electronic smog certificates of complianced without properly testing and inspecting the vehicles to determine if they were in compliance with Health & Saf. Code section 44012. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

FOURTH CAUSE FOR DISCIPLINE

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

37.e Respondent Smog Stop & Repair's smog check station license is subject to disciplinarye action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the following sections of California Code of Regulations, title 16:

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- a. <u>Section 3340.35</u>, <u>subdivision (c)</u>: Respondent issued five (5) electronic smogo certificates of compliance even though the vehicles had not been inspected in accordance with section 3340.42.
- b. <u>Section 3340.42</u>: Respondent failed to ensure that the required smog tests wereo conducted on five (5) vehicles in accordance with the Bureau's specifications. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

FIFTH CAUSE FOR DISCIPLINE

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

- 38.0 Respondent Kayajian's Smog Check Inspector and Smog Check Repair Techniciano licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:
- a. <u>Section 3340.42</u>: Respondent failed to conduct the required smog tests on five (5) of vehicles in accordance with the Bureau's specifications. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

39.0 Respondent Kayajian's Smog Check Inspector and Smog Check Repair Techniciano licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing five (5) electronic smog certificates of compliance without performing a bona fide inspection of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

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SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

40.e Respondent Kayajian's Brake and Lamp Adjuster licenses are subject to disciplinarye action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing a Certificate of Compliance for the 2005 Honda without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant incorporates the allegations of paragraphs 32 through 33 as set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

41.e Respondent Smog Stop & Repair's registration is subject to disciplinary actione pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a.e Respondent issued electronic smog certificates of compliance for a 2011 Toyotae Tacoma, a 2009 Nissan Altima 2.5, a 2008 Toyota Prius and a 2015 Toyota Tacoma Access Cab. In fact, Respondent failed to perform inspections of the emission control devices and systems on the vehicles. Complainant incorporates the allegations of paragraphs 27 through 33 as set forth herein.

MATTERS IN AGGRAVATION

42.e To determine the degree of discipline, if any, to be imposed on Respondents, complainant alleges as follows:

a.e On or about January 26, 2018, the Bureau issued Citation No. C2018-586 againste Respondent Jon Kayajian dba Smog Stop & Repair for violations of Health and Saf. Code section 44012. On or about January 10, 2018, Respondent issued a Certificate of Compliance to a Bureau Undercover Vehicle with a missing or modified Positive Crankcase Ventilation System. The

Bureau assessed civil penalties against Respondent for the violation. Respondent paid the fine on March 22, 2018.

On or about April 28, 2016, the Bureau issued Citation No. C2016-0886 against b.e Respondent Jon Kayajian dba Smog Stop & Repair for violations of Health and Saf. Code section 44012. On or around July 7, 2015, Respondent issued a Certificate of Compliance to a 1999 Ford Diesel using the BAR97 when an OBD Inspection System was required. Citation was dismissed by the Bureau on July 14, 2016.

On or about January 26, 2018, the Bureau issued Citation No. M2018-587 against \$\delta\$ Respondent Jon Kayajian for violations of Health and Saf. Code section 44032. Respondent inspected and certified a vehicle with missing or modified Positive Crankcase Control (PCV) components.

On or about April 28, 2016, the Bureau issued Citation No. M2016-0887 against Respondent Jon Kayajian for violations of Health and Saf. Code section 44012. Respondent issued a Certificate of Compliance using the BAR97 when an OBD Inspection System was required. Citation was dismissed by the Bureau.

OTHER MATTERS

43.e Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may suspend, revoke or place on probation the registration for all places of business operated in this state by Respondent Smog Stop & Repair upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

44.e Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station Licenses Number RC 278017, issued to Respondent Smog Stop & Repair, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

45.e Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Numbere

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LS 278017, issued to Respondent Smog Stop & Repair, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

46.e Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Numbere BS 278017, issued to Respondent Smog Stop & Repair, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

47.e Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector Licensee Number EO 636082, issued to Respondent Jon Kayajian, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

48.e Pursuant to Health & Saf. Code section 44072.8, if Smog Check Repair Techniciane License Number EI 636082, issued to Respondent Jon Kayajian, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

49.e Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Numbere BA 636082, issued to Respondent Jon Kayajian is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

50.e Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Numbere LA 636082, issued to Respondent Jon Kayajian, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. 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.e Revoking or suspending Automotive Repair Dealer Registration Number ARDe 278017, issued to Jon Kayajian dba Smog Stop & Repair;

1	13. Taking such other and further action as deemed necessary and proper.
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3	DATED: April 29, 2019 talueb Dolais
5	PATRICK DORAIS Chief
6	Bureau of Automotive Repair Department of Consumer Affairs State of California
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