

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ABOLGHASSEM H. SHAHIDI – OWNER,
D.B.A. LAFAYETTE VALERO**
3546 Mt. Diablo Blvd.
Lafayette, CA 94549

Automotive Repair Dealer Registration No.
ARD 173627
Smog Check, Test Only, Station License No.
TC 173627

and,

MOHAMMAD REZA SAADAT
1867 Cannon Dr.
Walnut Creek, CA 94597

Smog Check Inspector License No.
EO 34542
Smog Check Repair Technician License No.
EI 34542 (redesignated upon
renewal from Advanced Emissions
Specialist Technician License No.
EA 34542)

Case No. 79/14-107

Respondents.

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective

June 3, 2014

DATED: May 13, 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 79/14-107

12 **ABOLGHASSEM H. SHAHIDI - OWNER,**
13 **D.B.A. LAFAYETTE VALERO**
14 **3546 Mt. Diablo Blvd.**
Lafayette, CA 94549

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

15 **Automotive Repair Dealer Registration No.**
ARD 173627
16 **Smog Check, Test Only, Station License No.**
TC 173627

17 and,

18 **MOHAMMAD REZA SAADAT**
19 **1867 Cannon Dr.**
Walnut Creek, CA 94597

20 **Smog Check Inspector License No. EO**
34542
21 **Smog Check Repair Technician License No.**
EI 34542
22 **(redesignated upon renewal from Advanced**
23 **Emissions Specialist Technician License No.**
EA 34542)

24 Respondents.

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1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Kamala D. Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy
7 Attorney General.

8 2. Respondent Abolghassem H. Shahidi - Owner, d.b.a. Lafayette Valero (Respondent
9 Shop) is representing himself in this proceeding and has chosen not to exercise his right to be
10 represented by counsel.

11 3. Respondent Mohammad Reza Saadat (Respondent Technician) is representing
12 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

13 4. On or about July 14, 1993, the Bureau issued Automotive Repair Dealer Registration
14 Number ARD 173627 to Respondent Shop. The automotive repair dealer registration was in full
15 force and effect at all times relevant to the charges brought herein and will expire on July 31,
16 2014, unless renewed.

17 5. On or about May 2, 2012, the Bureau issued Smog Check, Test Only, Station License
18 Number TC 173627 to Respondent Shop. The smog check station license was in full force and
19 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless
20 renewed.

21 6. In 1999 the Bureau issued Advanced Emissions Specialist Technician License
22 Number EA 34542 to Respondent Technician. Upon renewal, this license was redesignated as
23 two licenses: Smog Check Inspector License No. EO 34542 and Smog Check Repair Technician
24 License No. EI 34542.¹ Respondent Technician was licensed by the Bureau at all times relevant
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26
27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
Emission Specialist Technician (EA) license and Basic Area Technician (EB) license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 to the charges brought herein, and his current licenses will expire on December 31, 2015, unless
2 renewed.

3 7. Respondent Shop and Respondent Technician are representing themselves in this
4 proceeding and have chosen not to exercise the right to be represented by counsel.

5 JURISDICTION

6 8. Accusation No. 79/14-107 was filed before the Director of Consumer Affairs
7 (Director), for the Bureau, and is currently pending against Respondent Shop and Respondent
8 Technician (together Respondents). The Accusation and all other statutorily required documents
9 were properly served on Respondents on March 17, 2014. Respondents timely filed a Notice of
10 Defense contesting the Accusation. A copy of Accusation No. 79/14-107 is attached as Exhibit A
11 and incorporated by reference.

12 ADVISEMENT AND WAIVERS

13 9. Respondents have carefully read and understand the charges and allegations in
14 Accusation No. 79/14-107. Respondents also have carefully read and understand the effects of
15 this Stipulated Revocation of License and Order.

16 10. Respondents are fully aware of their legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
18 their own expense; the right to confront and cross-examine the witnesses against them; the right
19 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 11. Respondents voluntarily, knowingly, and intelligently waive and give up each and
24 every right set forth above.

25 CULPABILITY

26 12. Respondents understand that the charges and allegations in Accusation No. 79/14-
27 107, if proven at a hearing, constitute cause for imposing discipline upon Automotive Repair
28 Dealer Registration No. ARD 173627, Smog Check, Test Only, Station License No. TC 173627,

1 Smog Check Inspector License No. EO 34542, and Smog Check Repair Technician License No.
2 EI 34542.

3 13. For the purpose of resolving the Accusation without the expense and uncertainty of
4 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
5 basis for the charges in the Accusation and that those charges constitute cause for discipline.
6 Respondents hereby give up their right to contest that cause for discipline exists against their
7 licenses/ registration based on those charges.

8 14. Respondent Shop understands that by signing this stipulation he enables the Director
9 to issue an order revoking his Automotive Repair Dealer Registration without further process.

10 15. Respondent Shop understands that by signing this stipulation he enables the Director
11 to issue an order revoking his Smog Check, Test Only, Station License without further process.

12 16. Respondent Technician understands that by signing this stipulation he enables the
13 Director to issue an order revoking his Smog Check Inspector License without further process.

14 17. Respondent Technician understands that by signing this stipulation he enables the
15 Director to issue an order revoking his Smog Check Repair Technician License without further
16 process.

17 CONTINGENCY

18 18. This stipulation shall be subject to approval by the Director or the Director's designee.
19 Respondents understand and agree that counsel for Complainant and the staff of the Bureau may
20 communicate directly with the Director and staff regarding this stipulation, without notice to or
21 participation by Respondents. By signing the stipulation, Respondents understand and agree that
22 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
23 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision
24 and Order, the Stipulated Revocation and Disciplinary Order shall be of no force or effect, except
25 for this paragraph, it shall be inadmissible in any legal action between the parties, and the
26 Director shall not be disqualified from further action by having considered this matter.

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ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated:

April 23, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General



BRETT A. KINGSBURY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/14-107

1 KAMALA D. HARRIS
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2 JOSHUA A. ROOM
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Attorneys for Complainant
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8 **BEFORE THE**
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9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

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ACCUSATION
(SMOG CHECK)

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Complainant alleges:

PARTIES

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

LICENSE INFORMATION

Automotive Repair Dealer Registration No. ARD 173627

2. On or about July 14, 1993, the Bureau issued Automotive Repair Dealer Registration Number ARD 173627 to Abolghassem H. Shahidi - Owner, d.b.a. Lafayette Valero (Respondent Shop). The automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless renewed.

Smog Check Station License No. TC 173627

3. On or about May 2, 2012, the Bureau issued Smog Check, Test Only, Station License Number TC 173627 to Respondent Shop. The smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless renewed.

Smog Check Inspector License No. EO 34542 and Smog Check Repair Technician License No. EI 34542

4. In 1999 the Director issued Advanced Emissions Specialist Technician License Number EA 34542 to Mohammad Reza Saadat (Respondent Technician). Upon renewal, Respondent Technician's license was redesignated as two licenses: Smog Check Inspector License No. EO 34542 and Smog Check Repair Technician License No. EI 34542.¹ Respondent Technician's licenses were in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2015, unless renewed.

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

1 **JURISDICTION**

2 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau under the authority of the following laws.

4 6. Business and Professions Code section 9884.7 provides that the Director may revoke
5 any automotive repair dealer registration.

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

10 8. Health and Safety Code section 44002 provides, in pertinent part, that the Director
11 has all the powers and authority granted under the Automotive Repair Act for enforcing the
12 Motor Vehicle Inspection Program.

13 9. Health and Safety Code section 44072 provides, in pertinent part, that the Director
14 may suspend or revoke any license issued under Chapter 5 of Part 5 of Division 26 of the Health
15 and Safety Code.

16 10. Health and Safety Code section 44072.6 provides, in pertinent part, that neither the
17 voluntary surrender of a license nor the expiration or suspension of a license by operation of law
18 or by order or decision of the Director or a court of law shall deprive the Director of jurisdiction
19 to proceed with disciplinary action.

20 11. California Code of Regulations title 16, section 3340.28(e) states that "[u]pon renewal
21 of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician
22 license issued prior to the effective date of this regulation, the licensee may apply to renew as a
23 Smog Check Inspector, Smog Check Repair Technician, or both."

24 **STATUTORY AND REGULATORY PROVISIONS**

25 12. Section 9884.7 of the Business and Professions Code states:

26 "(a) The director, where the automotive repair dealer cannot show there was a bona fide
27 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair
28 dealer for any of the following acts or omissions related to the conduct of the business of the

1 automotive repair dealer, which are done by the automotive repair dealer or any automotive
2 technician, employee, partner, officer, or member of the automotive repair dealer.

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

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

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

10 (4) Any other conduct that constitutes fraud.

11

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

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

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

24 13. Section 9884.9, subdivision (a), of the Business and Professions Code provides, in
25 pertinent part:

26 "The automotive repair dealer shall give to the customer a written estimated price for labor
27 and parts necessary for a specific job. No work shall be done and no charges shall accrue before
28 authorization to proceed is obtained from the customer. No charge shall be made for work done

1 or parts supplied in excess of the estimated price without the oral or written consent of the
2 customer that shall be obtained at some time after it is determined that the estimated price is
3 insufficient and before the work not estimated is done or the parts not estimated are supplied. . . .
4 If that consent is oral, the dealer shall make a notation on the work order of the date, time, name
5 of person authorizing the additional repairs, and telephone number called, if any, together with a
6 specification of the additional parts and labor in the total additional cost, and shall do either of the
7 following:

8 (1) Make a notation on the invoice of the same facts set forth in the notation on the work
9 order.

10 (2) Upon completion of the repairs, obtain the customer's signature or initials to an
11 acknowledgment of notice and consent, if there is an oral consent of the customer to additional
12 repairs, in the following language:

13 'I acknowledge notice and oral approval of an increase in the original estimated price.

14 _____ (signature or initials)

15"

16 14. Section 44012 of the Health and Safety Code states:

17 "The test at the smog check stations shall be performed in accordance with procedures
18 prescribed by the department The department shall ensure, as appropriate to the test method,
19 the following:

20 ". . . .

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

25 "

26 15. Health and Safety Code section 44014.5(b) provides:

27 "The repair of vehicles at test-only facilities is prohibited, except that the minor repair of
28 components damaged by station personnel during inspection at the station, any minor repair that

1 is necessary for the safe operation of a vehicle while at a station, or other minor repairs, such as
2 the reconnection of hoses or vacuum lines, may be undertaken at no charge to the vehicle owner
3 or operator if authorized in advance in writing by the department."

4 16. Health and Safety Code section 44032 provides, in pertinent part, that qualified
5 technicians shall perform tests of emission control devices and systems in accordance with
6 section 44012.

7 17. Section 44072.2 of the Health and Safety Code states:

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

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

14 ". . . .

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

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

17 ". . . .

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

20 18. California Code of Regulations title 16, section 3340.16(c), provides:

21 "A smog check test-only station shall not engage in any automotive repair work."

22 19. California Code of Regulations title 16, section 3340.24(c), states:

23 "The Bureau may suspend or revoke the license of or pursue other legal action against a
24 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
25 certificate of noncompliance."

26 20. California Code of Regulations title 16 section 3340.30(a), provides that smog check
27 inspectors shall inspect, test, and repair vehicles, as applicable, in accordance with Health and
28

1 Safety Code sections 44012 and 44035 and title 16, California Code of Regulations, section
2 3340.42.

3 21. California Code of Regulations title 16, section 3340.35(b), states:

4 "A licensed station shall not sell or otherwise transfer unused certificates to another
5 licensed station, to a new owner of the business, or to any person other than a customer whose
6 vehicle has been inspected in accordance with the procedures specified in section 3340.42 of this
7 article."

8 22. California Code of Regulations title 16, section 3340.41(c), provides:

9 "No person shall enter into the emissions inspection system any vehicle identification
10 information or emission control system identification data for any vehicle other than the one
11 being tested. Nor shall any person knowingly enter into the emissions inspection system any
12 false information about the vehicle being tested."

13 23. California Code of Regulations title 16, section 3340.42, states, in pertinent part:

14 "Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
15 section 3340.45."

16 24. California Code of Regulations title 16, section 3344.42.2(a), provides in pertinent
17 part that all 1996 and newer model-year spark ignition passenger vehicles shall be given a test of
18 the On-Board Diagnostics (OBD II) system.

19 25. California Code of Regulations title 16, section 3344.42.2(b), provides in pertinent
20 part that prior to January 1, 2013, all vehicle model-years 2001 and newer having more than one
21 incomplete readiness monitor shall fail the OBD II portion of a smog inspection.

22 26. California Code of Regulations title 16, section 3340.45, requires that all smog check
23 inspections be performed in accordance with the smog check inspection manual applicable to the
24 time period.

25 27. California Code of Regulations title 16, section 3353(a), provides:

26 "Estimate for Parts and Labor: Every dealer shall give to each customer a written estimated
27 price for parts and labor for a specific job."

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1 **COSTS**

2 28. Business and Professions Code section 125.3 provides, in pertinent part, that the
3 Bureau may request the administrative law judge to direct a licentiate found to have committed a
4 violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FRAUDULENT EMISSIONS INSPECTIONS SYSTEM WORK ORDERS**

7 29. On or about January 6, 2012, Respondent Shop faxed a Worldwide Environmental
8 Products work order to the Bureau's field office. Respondent Shop faxed the work order to the
9 Bureau because the automatic lockout had engaged on Respondent Shop's Emission Inspection
10 System (EIS). Respondent Shop needed to present the Bureau with evidence of repair by the EIS
11 equipment manufacturer to have the Bureau clear the automatic lockout.

12 30. The work order faxed to the Bureau's field office was not authentic. Respondent
13 Shop had forged the work order to deceive the Bureau into clearing the automatic lockout.

14 31. Similarly, Respondent Shop had faxed the Bureau forged work orders on or around
15 September 7, 2011, and October 26, 2011, in order to persuade the Bureau to clear other
16 automatic lockouts.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statement)**

19 32. Respondent Shop's automotive repair dealer registration is subject to disciplinary
20 action under section 9884.7, subdivision (a)(1), in that Respondent Shop made or authorized a
21 statement that was untrue or misleading, and that was known, or which by the exercise of
22 reasonable care should have been known, to be untrue or misleading. The circumstances are
23 described above in "Fraudulent Emissions Inspection System Work Orders."

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Conduct Constituting Fraud)**

26 33. Respondent Shop's automotive repair dealer registration is subject to disciplinary
27 action under section 9884.7, subdivision (a)(4), in that Respondent Shop engaged in conduct that
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1 constitutes fraud. The circumstances are described above in "Fraudulent Emissions Inspection
2 System Work Orders."

3 LICENSE CONVERSION

4 34. On or about August 11, 2010, Respondent Shop applied to convert from a "test-and-
5 repair" station to a "test-only" station. The Bureau granted the conversion.

6 35. The conversion permitted Respondent Shop to perform inspections of directed
7 vehicles, which are sent to test-only stations for their biennial registration renewal inspections, as
8 well as vehicles that previously had been identified as gross polluters. At the same time, the
9 conversion prohibited Respondent Shop from making automotive repairs.

10 36. On or about July 27, 2011, during a Bureau representative's inspection of Respondent
11 Shop, Respondent Technician was informed in writing and acknowledged the limitation on
12 Respondent Shop's ability to make automotive repairs.

13 37. On or about May 2, 2012, following the undercover operation described below in
14 "Undercover Operation # 1: April 26, 2012," a Bureau representative made another visit to
15 Respondent Shop and reminded Respondent Technician the shop was prohibited from performing
16 any repairs to motor vehicles. Respondent Technician indicated he understood and confirmed
17 that Respondent Shop had been operating as a test-only station and desired to continue operating
18 as the same.

19 UNDERCOVER OPERATION # 1: APRIL 26, 2012

20 38. On April 26, 2012, an undercover operator working for the Bureau drove a Bureau
21 documented 2001 Chevrolet (Chevrolet) to Respondent Shop's facility and requested a smog
22 inspection.

23 39. The Chevrolet was documented as having a defective Throttle Position Sensor (TPS),
24 which caused the Chevrolet's Malfunction Indicator Light (MIL) to be illuminated and a
25 Diagnostic Trouble Code (DTC) to be stored by the Chevrolet's on-board computer. The MIL
26 and DTC would cause the vehicle to fail a properly performed smog inspection. Furthermore,
27 even if the TPS were to be repaired, the Chevrolet still would be unable to pass the On-Board
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1 Diagnostics² portion of a correctly performed smog inspection until the Chevrolet had been
2 driven far enough and under the right conditions to allow the vehicle's on-board computer to
3 complete all but one of its system readiness monitors.

4 40. Respondent Shop provided the operator a blank work order and instructed the
5 operator to fill in the operator's information and sign. The operator did so. There was no
6 odometer reading on the work order. After signing, the operator was not provided a copy of the
7 work order. The operator also did not receive a written estimate.

8 41. Respondent Technician then informed the operator that because the Chevrolet's MIL
9 was illuminated, Respondent Technician would be unable to perform a smog inspection on the
10 vehicle. Respondent Technician informed the operator, however, that he could perform the
11 necessary repairs. Respondent Technician offered to diagnose the problem for a cost of \$119.
12 The operator agreed. The operator was not provided any paperwork and was not asked to sign
13 any additional authorization.

14 42. Respondent Technician later called the operator and diagnosed the Chevrolet as
15 having a bad TPS. Respondent Technician offered to repair and smog the Chevrolet for \$351.
16 The operator agreed. The repairs were performed, and Respondent Technician performed a smog
17 inspection on the Chevrolet and passed the vehicle. Respondent Shop issued a certificate of
18 compliance for the vehicle, and Respondent Technician signed the Vehicle Inspection Report,
19 certifying under penalty of perjury that the inspection was done in accord with all Bureau
20 requirements and that the information on the report was true and correct. The operator paid for
21 the repairs and smog inspection.

22 43. The Bureau then reinspected the Chevrolet and performed a smog inspection. The
23 TPS had been replaced, and the Chevrolet passed the smog inspection.

24
25 _____
26 ² On-Board Diagnostics (the OBD II test) is a portion of a smog inspection performed by
27 the technician using the EIS. During the OBD II test, the technician is required to connect an
28 interface cable from the EIS to a Diagnostic Link Connector (DLC) located inside the vehicle.
Through the DLC, the EIS automatically retrieves information from the vehicle's on-board
computer about the status of, inter alia, the vehicle's trouble codes, system readiness monitors,
and MIL. If the vehicle fails the OBD II test, it will fail the overall inspection.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Improper Work Order)**

3 47. Respondent Shop's automotive repair dealer registration is subject to disciplinary
4 action under Business and Professions Code section 9884.7, subdivision (a)(2), in that
5 Respondent Shop caused or allowed a customer to sign a work order that did not state the
6 automobile's odometer reading at the time of repair. The circumstances are described above in
7 "Undercover Operation # 1: April 26 2012."

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Failure to Immediately Return Copy of Signed Document)**

10 48. Respondent Shop's automotive repair dealer registration is subject to disciplinary
11 action under Business and Professions Code section 9884.7, subdivision (a)(3), in that
12 Respondent Shop failed or refused to give a customer a copy of a document requiring the
13 customer's signature as soon as the customer signed the document. The circumstances are
14 described above in "Undercover Operation # 1: April 26, 2012."

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Violation of Chapter)**

17 49. Respondent Shop's automotive repair dealer registration is subject to disciplinary
18 action under Business and Professions Code section 9884.7, subdivision (a)(6), in that, as
19 described above in "Undercover Operation # 1: April 26, 2012," Respondent Shop violated the
20 following provision of Chapter 20.3 of Division 3 of the Business and Professions Code:

21 50. 9884.9(a): Respondent Shop failed to provide a written estimated price for labor and
22 parts necessary for the work performed.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Violation of Chapter)**

25 51. Respondent Shop's smog check station license is subject to disciplinary action under
26 Health and Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
27 "Undercover Operation # 1: April 26, 2012," Respondent Shop violated the following provisions
28 of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

1 certificate of compliance, thereby depriving the people of California of the protections of the
2 Health and Safety Code and Motor Vehicle Inspection Program. The circumstances are described
3 above more fully in "Undercover Operation # 1: April 26, 2012."

4 **ELEVENTH CAUSE FOR DISCIPLINE**

5 **(Violation of Chapter)**

6 62. Respondent Technician's licenses are subject to disciplinary action under Health and
7 Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
8 "Undercover Operation # 1: April 26, 2012," Respondent Technician violated the following
9 provisions of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

10 63. 44032/ 44012: Respondent Technician failed to perform the smog inspection on the
11 Chevrolet in accordance with procedures prescribed by the department.

12 64. 44014.5(b): Respondent Technician performed repairs at a test-only station.

13 65. 44012(f): Respondent Technician failed to perform the OBD II functional test in
14 accordance with procedures prescribed by the department.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 **(Violation of Regulations)**

17 66. Respondent Technician's licenses are subject to disciplinary action under Health and
18 Safety Code section 44072.2, subdivision (c), in that, as described above in "Undercover
19 Operation # 1: April 26, 2012," Respondent Technician violated the following regulatory
20 provisions in title 16 of the California Code of Regulations:

21 67. 3340.24(c): Respondent Technician falsely or fraudulently issued a certificate of
22 compliance.

23 68. 3340.42/ 3340.45: Respondent Technician performed a smog inspection other than in
24 accordance with the smog check inspection manual.

25 69. 3340.30: Respondent Technician failed to inspect and test the Chevrolet in
26 accordance with testing requirements.

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1 operator that Respondent Technician could fix the problem, but that the 2001 Chevrolet would
2 need to be driven for a couple of days after that before it would pass a smog inspection.

3 Respondent Technician informed the operator it would cost \$119 to diagnose the problem and
4 that he would call the operator when he could give an estimate for the cost of the repairs.

5 Respondent Technician handed the operator a work order and asked the operator to fill in the
6 customer information and sign. The operator did so. There was no odometer reading on the work
7 order, and the operator was not given a copy after signing. Nor was the operator provided a
8 written estimate. Respondent Technician then handed the operator a business card with the
9 business name "Lafayette Valero" on it. The business card advertised "auto repair."

10 76. Later that day, the operator received a call from Respondent Technician, who
11 informed the operator that the problem was the ECT. Respondent Technician informed the
12 operator it would cost \$330 to repair the 2001 Chevrolet. Respondent Technician reminded the
13 operator that Respondent Technician would need to drive the vehicle before Respondent
14 Technician would be able to smog it.

15 77. Two hours later, Respondent Technician called the operator and left a voicemail that
16 the car had been repaired and that Respondent Technician already had performed the smog
17 inspection on the vehicle. Respondent Technician told the operator that the operator could pick
18 up the 2001 Chevrolet that evening or the following morning.

19 78. The operator returned to Respondent Shop the next day and paid for the repairs and
20 smog test. Respondent Shop issued a certificate of compliance for the vehicle, and Respondent
21 Technician signed the Vehicle Inspection Report, certifying under penalty of perjury that the
22 inspection was done in accord with all Bureau requirements and that the information on the report
23 was true and correct.

24 79. The Bureau then reinspected the 2001 Chevrolet and performed a smog inspection.
25 The ECT had been replaced. The 2001 Chevrolet failed the smog inspection because the on-
26 board computer had not completed a sufficient number of its system readiness monitors.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(False or Misleading Statements)**

3 80. Respondent Shop's automotive repair dealer registration is subject to disciplinary
4 action under Business and Professions Code section 9884.7, subdivision (a)(1), in that
5 Respondent Shop made or authorized a written or oral statement which was untrue or misleading,
6 in which was known, or which by the exercise of reasonable care should have been known to be
7 untrue or misleading. Specifically, Respondent Shop's technician falsely certified he had
8 performed the smog inspection on the 2001 Chevrolet in accordance with all Bureau requirements
9 and that the information on the Vehicle Inspection Report was true and correct. In fact, the
10 inspection was not performed in accordance with Bureau requirements, and the 2001 Chevrolet
11 was not in a condition that it could pass the On-Board Diagnostics portion of a smog inspection.
12 The circumstances are described above in "Undercover Operation # 2: May 30, 2012."

13 81. Moreover, as described above in "License Conversion," on or about May 2, 2012, a
14 Bureau representative visited Respondent Shop and spoke with Respondent Technician.
15 Respondent Technician told the Bureau representative that Respondent Shop had been operating
16 as a test-only station and desired to continue operating as the same. In fact, as described above in
17 "Undercover Operation # 1: April 26, 2012" and "Undercover Operation # 2: May 30, 2012,"
18 Respondent Shop had not been operating as a test-only facility.

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

20 **(Conduct Constituting Fraud)**

21 82. Respondent Shop's automotive repair dealer registration is subject to disciplinary
22 action under Business and Professions Code section 9884.7, subdivision (a)(4), in that
23 Respondent Shop engaged in conduct that constitutes fraud. Specifically, Respondent Shop's
24 technician utilized a vehicle other than the 2001 Chevrolet for the OBD II test when performing
25 the smog inspection and issued a certificate of compliance to the 2001 Chevrolet. The
26 circumstances are described above in "Undercover Operation # 2: May 30, 2012."

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Improper Work Order)**

3 83. Respondent Shop's automotive repair dealer registration is subject to disciplinary
4 action under Business and Professions Code section 9884.7, subdivision (a)(2), in that
5 Respondent Shop caused or allowed a customer to sign a work order that did not state the
6 automobile's odometer reading at the time of repair. The circumstances are described above in
7 "Undercover Operation # 2: May 30, 2012."

8 **SEVENTEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Immediately Return Copy of Signed Document)**

10 84. Respondent Shop's automotive repair dealer registration is subject to disciplinary
11 action under Business and Professions Code section 9884.7, subdivision (a)(3), in that
12 Respondent Shop failed or refused to give a customer a copy of a document requiring the
13 customer's signature as soon as the customer signed the document. The circumstances are
14 described above in "Undercover Operation # 2: May 30, 2012."

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 **(Violation of Chapter)**

17 85. Respondent Shop's automotive repair dealer registration is subject to disciplinary
18 action under Business and Professions Code section 9884.7, subdivision (a)(6), in that, as
19 described above in "Undercover Operation # 2: May 30, 2012," Respondent Shop violated the
20 following provision of Chapter 20.3 of Division 3 of the Business and Professions Code:

21 86. 9884.9(a): Respondent Shop failed to provide a written estimated price for labor and
22 parts necessary for the work performed.

23 **NINETEENTH CAUSE FOR DISCIPLINE**

24 **(Violation of Chapter)**

25 87. Respondent Shop's smog check station license is subject to disciplinary action under
26 Health and Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
27 "Undercover Operation # 2: May 30, 2012," Respondent Shop violated the following provisions
28 of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

1 88. 44012(f): Respondent Shop failed to perform the OBD II functional test in
2 accordance with the procedures prescribed by the department.

3 89. 44014.5(b): Respondent Shop repaired the vehicle despite being licensed as a test-
4 only station.

5 **TWENTIETH CAUSE FOR DISCIPLINE**

6 **(Violation of Regulations)**

7 90. Respondent Shop's smog check station license is subject to disciplinary action under
8 Health and Safety Code section 44072.2, subdivision (c), in that, as described above in
9 "Undercover Operation # 2: May 30, 2012," Respondent Shop violated the following regulatory
10 provisions in title 16 of the California Code of Regulations:

11 91. 3340.24(c): Respondent Shop falsely or fraudulently issued a certificate of
12 compliance.

13 92. 3340.35(b): Respondent Shop issued a certificate of compliance to a person other
14 than a customer whose vehicle had been inspected in accordance with Bureau procedures.

15 93. 3340.42/ 3340.45: Respondent Shop performed a smog inspection other than in
16 accordance with the smog check inspection manual.

17 94. 3340.16(c): Respondent Shop was a test-only station but engaged in automotive
18 repair work.

19 95. 3344.42.2(b): Respondent Shop passed the 2001 Chevrolet with respect to the OBD
20 II test even though more than one of the 2001 Chevrolet's readiness monitors were incomplete.

21 96. 3353(a): Respondent Shop did not give the customer a written estimated price for
22 parts and labor.

23 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

24 **(Dishonesty)**

25 97. Respondent Shop's smog check station license is subject to disciplinary action under
26 Health and Safety Code section 44072.2, subdivision (d), in that Respondent Shop committed an
27 act involving dishonesty or deceit whereby another was injured. Specifically, Respondent Shop
28 charged money for an inspection but did not properly perform one, and improperly issued a

1 certificate of compliance, thereby depriving the people of California of the protections of the
2 Health and Safety Code and Motor Vehicle Inspection Program. The circumstances are described
3 above more fully in "Undercover Operation # 2: May 30, 2012."

4 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

5 **(Violation of Chapter)**

6 98. Respondent Technician's licenses are subject to disciplinary action under Health and
7 Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
8 "Undercover Operation # 2: May 30, 2012," Respondent Technician violated the following
9 provisions of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

10 99. 44032/ 44012: Respondent Technician failed to perform the smog inspection on the
11 2001 Chevrolet in accordance with procedures prescribed by the department.

12 100. 44014.5(b): Respondent Technician performed repairs at a test-only station.

13 101. 44012(f): Respondent Technician failed to perform the OBD II functional test in
14 accordance with procedures prescribed by the department.

15 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Regulations)**

17 102. Respondent Technician's licenses are subject to disciplinary action under Health and
18 Safety Code section 44072.2, subdivision (c), in that, as described above in "Undercover
19 Operation # 2: May 30, 2012," Respondent Technician violated the following regulatory
20 provisions in title 16 of the California Code of Regulations:

21 103. 3340.24(c): Respondent Technician falsely or fraudulently issued a certificate of
22 compliance.

23 104. 3340.42/ 3340.45: Respondent Technician performed a smog inspection other than in
24 accordance with the smog check inspection manual.

25 105. 3340.30: Respondent Technician failed to inspect and test the 2001 Chevrolet in
26 accordance with testing requirements.

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1 the inspection. Respondent Technician then informed the operator that the 1993 Chevrolet
2 needed a tune up and that he could perform the work for the operator. The operator paid for the
3 smog inspection and received a Vehicle Inspection Report.

4 112. Shortly thereafter, the operator called Respondent Technician and informed him the
5 operator had decided to have the repairs done and would be there shortly.

6 113. When the operator returned, Respondent Technician informed the operator that
7 Respondent Technician would call when he knew how much the tune up would cost. The
8 operator asked whether there was any additional paperwork to fill in, but Respondent Technician
9 said no, given Respondent Shop already had the operator's information.

10 114. Respondent Technician later called and recommended a series of repairs. Respondent
11 Technician informed the operator the repairs would be \$485.41. The operator was not provided a
12 written estimate for the repairs.

13 115. The operator verbally authorized the repairs, which Respondent Technician
14 performed.

15 116. The Bureau then reinspected the 1993 Chevrolet and performed a smog inspection.
16 The repairs had been performed, and the vehicle passed the smog inspection.

17 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

18 **(Improper Work Order)**

19 117. Respondent Shop's automotive repair dealer registration is subject to disciplinary
20 action under Business and Professions Code section 9884.7, subdivision (a)(2), in that
21 Respondent Shop caused or allowed a customer to sign a work order that did not state the repairs
22 requested by the customer or the automobile's odometer reading at the time of repair. The
23 circumstances are described above in "Undercover Operation # 3: October 30, 2012."

24 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

25 **(Failure to Immediately Return Copy of Signed Document)**

26 118. Respondent Shop's automotive repair dealer registration is subject to disciplinary
27 action under Business and Professions Code section 9884.7, subdivision (a)(3), in that
28 Respondent Shop failed or refused to give a customer a copy of a document requiring the

1 customer's signature as soon as the customer signed the document. The circumstances are
2 described above in "Undercover Operation # 3: October 30, 2012."

3 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

4 **(Violation of Chapter)**

5 119. Respondent Shop's automotive repair dealer registration is subject to disciplinary
6 action under Business and Professions Code section 9884.7, subdivision (a)(6), in that, as
7 described above in "Undercover Operation # 3: October 30, 2012," Respondent Shop violated the
8 following provision of Chapter 20.3 of Division 3 of the Business and Professions Code:

9 120. 9884.9(a): Respondent Shop failed to provide a written estimated price for labor and
10 parts necessary for any of the work performed. Respondent Shop further failed to properly make
11 notation on the work order of verbally authorized repairs.

12 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

13 **(Violation of Chapter)**

14 121. Respondent Shop's smog check station license is subject to disciplinary action under
15 Health and Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
16 "Undercover Operation # 3: October 30, 2012," Respondent Shop violated the following
17 provision of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

18 122. 44014.5(b): Respondent Shop repaired a vehicle despite being licensed as a test-only
19 station.

20 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

21 **(Violation of Regulations)**

22 123. Respondent Shop's smog check station license is subject to disciplinary action under
23 Health and Safety Code section 44072.2, subdivision (c), in that, as described above in
24 "Undercover Operation # 3: October 30, 2012," Respondent Shop violated the following
25 regulatory provisions in title 16 of the California Code of Regulations:

26 124. 3340.16(c): Respondent Shop was a test-only station but engaged in automotive
27 repair work.

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1 125. 3353(a): Respondent Shop did not give the customer a written estimated price for
2 parts and labor.

3 **THIRTIETH CAUSE FOR DISCIPLINE**

4 **(Violation of Chapter)**

5 126. Respondent Technician's licenses are subject to disciplinary action under Health and
6 Safety Code section 44072.2, subdivisions (a) and/or (h), in that, as described above in
7 "Undercover Operation # 3: October 30, 2012," Respondent Technician violated the following
8 provisions of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code:

9 127. 44014.5(b): Respondent Technician performed repairs at a test-only station.

10 **DISCIPLINE CONSIDERATIONS**

11 128. To determine the degree of discipline, if any, to be imposed on Respondent Shop,
12 Complainant alleges that on or about January 9, 2002, in a prior action, the Bureau issued Citation
13 Number # C02-0449 against Respondent Shop's smog check station license for issuing a
14 certificate of compliance to an undercover vehicle with faulty ignition timing. The Bureau
15 assessed a civil penalty of \$500. The citation was paid on February 27, 2002.

16 129. To determine the degree of discipline, if any, to be imposed on Respondent Shop,
17 Complainant alleges that on or about April 1, 2003, in a prior action, the Bureau issued Citation
18 Number # C03-1008 against Respondent Shop's smog check station license for issuing a
19 certificate of compliance to an undercover vehicle with faulty ignition timing. The Bureau
20 assessed a civil penalty of \$500. The citation was paid on May 15, 2003.

21 130. To determine the degree of discipline, if any, to be imposed on Respondent
22 Technician, Complainant alleges that on or about April 1, 2003, in a prior action, the Bureau
23 issued Citation Number # M03-1009 against Respondent Technician's license for issuing a
24 certificate of compliance to an undercover vehicle with faulty ignition timing. The Bureau
25 ordered Respondent Technician to complete an 8-hour training course. Respondent Technician
26 completed the training on May 13, 2003.

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1 OTHER MATTERS

2 131. Pursuant to Business and Professions Code section 9884.7(c), the director may
3 suspend, revoke, or place on probation the registrations for all places of business operated in the
4 state by Abolghassem H. Shahidi, upon a finding that he has, or is, engaged in a course of
5 repeated and willful violation of the laws and regulations pertaining to an automotive repair
6 dealer.

7 132. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test Only,
8 Station License Number TC 173627, issued to Abolghassem H. Shahidi, is revoked, suspended,
9 or placed on probation, any additional license issued under Chapter 5 of Part 5 of Division 26 of
10 the Health and Safety Code in the name of said licensee may be likewise revoked, suspended, or
11 placed on probation by the director.

12 133. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
13 License Number EO 34542 and/or Smog Check Repair Technician License Number EI 34542,
14 issued to Mohammad Reza Saadat, is revoked, suspended, or placed on probation, any additional
15 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
16 of said licensee may be likewise revoked, suspended, or placed on probation by the director.

17 PRAYER

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

20 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
21 Registration Number ARD 173627, issued to Abolghassem H. Shahidi, doing business as
22 Lafayette Valero;

23 2. Revoking, suspending, or placing on probation any other automotive repair dealer
24 registration issued to Abolghassem H. Shahidi;

25 3. Revoking, suspending, or placing on probation Smog Check, Test Only, Station
26 License Number TC 173627, issued to Abolghassem H. Shahidi, doing business as Lafayette
27 Valero;

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1 4. Revoking, suspending, or placing on probation any other license issued under Chapter
2 5, Part 5, Division 26 of the Health and Safety Code in the name of Abolghassem H. Shahidi;

3 5. Revoking, suspending, or placing on probation Smog Check Inspector License
4 Number EO 34542 and Smog Check Repair Technician License Number EI 34542, issued to
5 Mohammed Reza Saadat;

6 6. Revoking, suspending, or placing on probation any other license issued under Chapter
7 5, Part 5, Division 26 of the Health and Safety Code in the name of Mohammed Reza Saadat;

8 7. Ordering Respondent Shop and Respondent Technician to pay the Bureau of
9 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
10 pursuant to Business and Professions Code section 125.3;

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

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DATED: March 14, 2014


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

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