

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

In the Matter of the Accusation Against:

BISHEH, INC.
dba AIRPORT SMOG
POUYA MOALEJ, President
1225 S. Oxnard Boulevard
Oxnard, California 93030

Automotive Repair Dealer Registration
No. AD 221086
Smog Check, Test Only, Station License
No. TD 221086

and

CHARLES WILLIAM PROCTOR
1400 California Street
Oxnard, California 93033

Advanced Emission Specialist Technician
License No. EA 041149

and

MOHAMMED MOALEJ
15651 Crown Ridge Place
Sherman Oaks, California 91403

Advanced Emission Specialist Technician
License No. EA 045409

Respondents.

Case No. 79/09-15

OAH No. L-2009070547

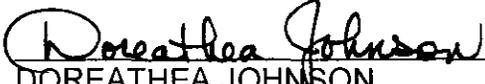
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-

entitled matter only as to respondents Bisheh, Inc., dba Airport Smog, Pouya Moalej, President, Automotive Repair Dealer Registration No. AD 221086 and Smog Check, Test Only, Station License No. TD 221086, and Mohammad Moalej, Advanced Emission Specialist Technician License No. EA 045409.

This Decision shall become on 5/17/10.

IT IS SO ORDERED April 12, 2010.


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA BARRIOS
Supervising Deputy Attorney General
3 KIMBERLEE D. KING
Deputy Attorney General
4 State Bar No. 141813
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 79/09-15

13 **BISHEH INC., AIRPORT SMOG; POUYA**
14 **MOALEJ, PRESIDENT, ET AL.**
1225 S. Oxnard Blvd.
15 Oxnard, California 93030
Automotive Repair Dealer License No.
16 **AD221086**
Smog Check Test Only Station License No.
17 **TD221086**
Smog Check Technician License No.
18 **EA151799,**

OAH No. L-2009070547

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19 and

20 **MOHAMMED MOALEJ, TECHNICIAN**
15651 Crown Ridge Place
21 Sherman Oaks, CA 91403
Advance Emission Specialist Technician No.
22 **EA045409,**

23 Respondents.
24

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

27 ///

28 ///

1 PARTIES

2 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
3 brought this action solely in her official capacity and is represented in this matter by Edmund G.
4 Brown Jr., Attorney General of the State of California, by Kimberlee D. King, Deputy Attorney
5 General.

6 2. Respondents Bisheh Inc., dba Airport Smog with Pouya Moalej as President
7 (Respondent) is representing itself through its President, Pouya Moalej in this proceeding and has
8 chosen not to exercise its right to be represented by counsel. Respondent Mohammed Moalej is
9 also representing himself in this proceeding and has chosen not to exercise his right to be
10 represented by counsel.

11 3. On an uncertain date in 2002, the Bureau of Automotive Repair issued Automotive
12 Repair Dealer License No. AD221086 to Bisheh Inc., dba Airport Smog, with Pouya Moalej as
13 President (Respondent Bisheh). The Automotive Repair Dealer License was in full force and
14 effect at all times relevant to the charges brought in Accusation No. 79/09-15 and will expire on
15 April 30, 2010, unless renewed.

16 4. On or about May 16, 2002, the Bureau of Automotive Repair issued Smog Check
17 Test Only Station License No. TD221086 to Bisheh Inc., dba Airport Smog with Pouya Moalej as
18 President (Respondent Bisheh). The Smog Check Test Only Station License was in full force and
19 effect at all times relevant to the charges brought in Accusation No. 79/09-15 and will expire on
20 April 30, 2010, unless renewed.

21 5. On an uncertain date in 1997, the Bureau of Automotive Repair issued Advanced
22 Emission Specialist License No. EA045409 to Mohammed Moalej (Respondent Moalej). The
23 Technician License was in full force and effect at all times relevant to the charges brought in
24 Accusation No. 79/09-15 and will expire on February 28, 2010, unless renewed.

25 JURISDICTION

26 6. Accusation No. 79/09-15 was filed before the Director of Consumer Affairs
27 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
28 Respondents. The Accusation and all other statutorily required documents were properly served

1 on Respondents on December 11, 2008. Respondents timely filed their Notices of Defense
2 contesting the Accusation. A copy of Accusation No. 79/09-15 is attached as exhibit A and
3 incorporated herein by reference.

4 ADVISEMENT AND WAIVERS

5 7. Respondents have carefully read, and understands the charges and allegations in
6 Accusation No. 79/09-15. Respondents have also carefully read, and understands the effects of
7 this Stipulated Settlement and Disciplinary Order.

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

15 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
16 every right set forth above.

17 CULPABILITY

18 10. Respondents admit the truth of each and every charge and allegation in Accusation
19 No. 79/09-15.

20 11. Respondent Bisheh and Respondent Moalej agrees that their licenses are subject to
21 discipline and they agree to be bound by the Director of Consumer Affairs (Director)'s imposition
22 of discipline as set forth in the Disciplinary Order below.

23 CONTINGENCY

24 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or
25 his designee. Respondents understand and agree that counsel for Complainant and the staff of the
26 Bureau of Automotive Repair may communicate directly with the Director and staff of the
27 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
28 participation by Respondents. By signing the stipulation, Respondents understand and agree that

1 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
2 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision
3 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except
4 for this paragraph, it shall be inadmissible in any legal action between the parties, and the
5 Director shall not be disqualified from further action by having considered this matter.

6 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
7 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
8 effect as the originals.

9 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
10 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
11 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
12 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
13 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
14 writing executed by an authorized representative of each of the parties.

15 15. In consideration of the foregoing admissions and stipulations, the parties agree that
16 the Director may, without further notice or formal proceeding, issue and enter the following
17 Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Automotive Repair Dealer License No. AD221086 issued
20 and Smog Check Test Only Station License No. TD221086 to Respondent Bisheh Inc., dba
21 Airport Smog with Pouya Moalej as President is revoked.

22 It is further ordered that Advanced Emission Specialist Technician License Number
23 EA045409 issued to Mohammed Moalej (Respondent Moalej) is revoked. However, the
24 revocation is stayed and Respondent Moalej is placed on probation for three (3) years on the
25 following terms and conditions.

26 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
27 automotive inspections, estimates and repairs.

28 2. **Reporting.** Respondent Moalej must report in person or in writing as prescribed by

1 the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than
2 each quarter, on the methods used and success achieved in maintaining compliance with the terms
3 and conditions of probation.

4 3. **Jurisdiction.** If an accusation is filed against Respondent during the term of
5 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
6 until the final decision on the accusation, and the period of probation shall be extended until such
7 decision.

8 4. **Violation of Probation.** Should the Director of Consumer Affairs determine that
9 Respondent Moalej has failed to comply with the terms and conditions of probation, the
10 Department may, after giving notice and opportunity to be heard.

11 5. **Continuing Education Courses.** During the period of probation, Respondent shall
12 attend and successfully complete a Bureau certified training course in diagnosis and repair of
13 emission systems failures and engine performance, applicable to the class of license held by the
14 Respondent. Said course shall be completed and proof of completion submitted to the Bureau
15 within 60 days of the effective date of this decision and order. If proof of completion of the
16 course is not furnished to the Bureau within the 60-day period, Respondents' license shall be
17 immediately suspended until such proof is received.

18 6. Respondent Bisheh shall lose all rights and privileges as an Automotive Repair
19 Dealer and Smog Check Test Only Station in California as of the effective date of the Bureau's
20 Decision and Order.

21 7. If Respondent Bisheh or any of its officers ever applies for licensure or petitions for
22 reinstatement in the State of California, the Bureau shall treat it as a new application for licensure.
23 Respondent must comply with all the laws, regulations and procedures for licensure in effect at
24 the time the application or petition is filed, and all of the charges and allegations contained in
25 Accusation No. 79/09-15 shall be deemed to be true, correct and admitted by Respondent when
26 the Bureau determines whether to grant or deny the application or petition.

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1 8. Respondent Bisheh or any of its officers shall pay the Bureau its costs of investigation
2 and enforcement in the amount of \$\$23,587.24 at the time of application for a new or reinstated
3 license.

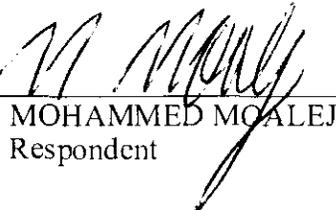
4 ACCEPTANCE

5 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
6 stipulation and the effect it will have on both my Automotive Repair Dealer License, and Smog
7 Check Test Only Station License and/or Advanced Emission Specialist Technician License. I
8 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
9 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
10 Affairs.

11
12 DATED: 03-11-10


13 BISHEH INC., dba AIRPORT SMOG; POUYA
14 MOALEJ, PRESIDENT
Respondent

15
16 DATED: 03/11/10


17 MOHAMMED MOALEJ
Respondent

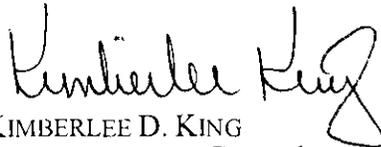
18
19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Director of Consumer Affairs.

1 Dated: 3/18/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GLORIA BARRIOS
Supervising Deputy Attorney General

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KIMBERLEE D. KING
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/09-15

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 GREGORY J. SALUTE, State Bar No. 164015
Supervising Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2520
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 79/09-15

11 **BISHEH, INC., dba**
12 **AIRPORT SMOG**
1225 S. Oxnard Boulevard
Oxnard, California 93030
13 **POUYA MOALEJ, PRESIDENT**

A C C U S A T I O N

[SMOG CHECK]

14 Automotive Repair Dealer Registration
No. AD 221086
15 Smog Check, Test Only Station License
No. TD 221086,

16 and

17 **CHARLES WILLIAM PROCTOR**
18 1400 California Street
Oxnard, California 93033

19 Advanced Emission Specialist Technician
20 No. EA 041149,

21 and

22 **MOHAMMAD MOALEJ**
15651 Crown Ridge Place
23 Sherman Oaks, California 91403

24 Advanced Emission Specialist Technician
License No. EA 045409

25 Respondents.
26

27
28 Sherry Mehl ("Complainant") alleges:

1 PARTIES

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

4 **Automotive Repair Dealer Registration**

5 2. On a date uncertain in 2002, the Bureau issued Automotive Repair Dealer
6 Registration Number AD 221086 ("registration") to Bisheh, Inc. ("Respondent Airport Smog"),
7 doing business as Airport Smog, with Pouya Moalej as President. The registration will expire on
8 April 30, 2009, unless renewed.

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

10 3. On or about May 16, 2002, the Bureau issued Smog Check, Test Only
11 Station License Number TD 221086 ("station license") to Respondent Airport Smog. The station
12 license will expire on April 30, 2009, unless renewed.

13 **Advanced Emission Specialist Technician License**

14 4. On a date uncertain in 1996, the Bureau issued Advanced Emission
15 Specialist Technician Number EA 041149 ("technician license") to Charles William Proctor
16 ("Respondent Proctor"). The technician license will expire on November 30, 2008, unless
17 renewed.

18 **Advanced Emission Specialist Technician License**

19 5. On a date uncertain in 1997, the Bureau Advanced Emission Specialist
20 Technician License Number EA 045309 ("technician license") to Mohammad Moalej
21 ("Respondent Moalej"). The technician license will expire on February 28, 2009.

22 STATUTORY PROVISIONS

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

25 (a) The director, where the automotive repair dealer cannot show there was
26 a bona fide error, may refuse to validate, or may invalidate temporarily or
27 permanently, the registration of an automotive repair dealer for any of the
28 following acts or omissions related to the conduct of the business of the
automotive repair dealer, which are done by the automotive repair dealer or any
automotive technician, employee, partner, officer, or member of the automotive
repair dealer.

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

5 (4) Any other conduct which constitutes fraud.

6 (b) Except as provided for in subdivision (c), if an automotive repair
7 dealer operates more than one place of business in this state, the director pursuant
8 to subdivision (a) shall only invalidate temporarily or permanently the registration
9 of the specific place of business which has violated any of the provisions of this
10 chapter. This violation, or action by the director, shall not affect in any manner
11 the right of the automotive repair dealer to operate his or her other places of
12 business.

13 (c) Notwithstanding subdivision (b), the director may invalidate
14 temporarily or permanently, the registration for all places of business operated in
15 this state by an automotive repair dealer upon a finding that the automotive repair
16 dealer has, or is, engaged in a course of repeated and willful violations of this
17 chapter, or regulations adopted pursuant to it.

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

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

26 9. Section 44002 of the Health and Safety Code provides, in pertinent part,
27 that the Director has all the powers and authority granted under the Automotive Repair Act for
28 enforcing the Motor Vehicle Inspection Program.

10. Section 44072.2 of the Health and Safety Code 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:

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

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

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

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

9 12. Section 44072.8 of the Health and Safety Code states:

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

13 COST RECOVERY

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

18 SURVEILLANCE OPERATION - AUGUST 1, 2007

19 14. On or about August 1, 2007, the Bureau performed a videotaped
20 surveillance at Respondent Airport Smog's facility. The surveillance operation and information
21 obtained from the Bureau's Vehicle Information Database ("VID") revealed that from
22 approximately 1721 hours to 1726 hours, Respondent Proctor performed a smog inspection that
23 resulted in the issuance of electronic Certificate of Compliance No. MU016599C, certifying that
24 he had tested and inspected a 1983 LAZYD motor home, California License Plate No. 5G5B765,
25 and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
26 Proctor performed the smog inspection using the clean-piping¹ method by using the tail pipe

27 1. "Clean-piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
28 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
compliance or are not present in the smog check area during the time of the certification.

1 emissions of a vehicle other than the vehicle being certified in order to issue the certificate of
2 compliance. The vehicle certified was not in the test bay at the time of the smog inspection.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Misleading Statements)**

5 15. Respondent Airport Smog has subjected its registration to discipline under
6 Code section 9884.7, subdivision (a)(1), in that on or about August 1, 2007, it made statements
7 which it knew or which by exercise of reasonable care it should have known were untrue or
8 misleading when it issued electronic Certificate of Compliance No. MU016599C for the 1983
9 LAZYD motor home, certifying that the vehicle was in compliance with applicable laws and
10 regulations when, in fact, the vehicle had been clean-piped.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 16. Respondent Airport Smog has subjected its registration to discipline under
14 Code section 9884.7, subdivision (a)(4), in that on or about August 1, 2007, it committed acts
15 which constitute fraud by issuing electronic Certificate of Compliance No. MU016599C for the
16 1983 LAZYD motor home without performing a bona fide inspection of the emission control
17 devices and systems on that vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violation of the Motor Vehicle Inspection Program)**

21 17. Respondent Airport Smog has subjected its station license to discipline
22 under Health and Safety Code section 44072.2, subdivision (a), in that on or about August 1,
23 2007, regarding the 1983 LAZYD motor home, it violated sections of that Code, as follows:

24 a. **Section 44012, subdivision (f):** Respondent Airport Smog failed to
25 perform emission control tests on the vehicle in accordance with procedures prescribed by the
26 department.

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1 for the vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby
2 depriving the People of the State of California of the protection afforded by the Motor Vehicle
3 Inspection Program.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Violations of the Motor Vehicle Inspection Program)**

6 20. Respondent Proctor has subjected his technician license to discipline under
7 Health and Safety Code section 44072.2, subdivision (a), in that on or about August 1, 2007,
8 regarding the 1983 LAZYD motor home, he violated sections of that Code, as follows:

9 a. **Section 44012, subdivision (f):** Respondent Proctor failed to determine
10 that all emission control devices and systems required by law were installed and functioning
11 correctly on those vehicles in accordance with test procedures.

12 b. **Section 44032:** Respondent Proctor failed to perform tests of the
13 emission control devices and systems on that vehicle in accordance with section 44012 of that
14 Code, in that the vehicle had been clean-piped.

15 c. **Section 44059:** Respondent made false entries for electronic Certificate
16 of Compliance No. MU016599C by certifying that the vehicle had been inspected as required
17 when, in fact, it had not.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

20 21. Respondent Proctor has subjected his technician license to discipline under
21 Health and Safety Code section 44072.2, subdivision (c), in that on or about August 1, 2007,
22 regarding the 1983 LAZYD motor home, he violated sections of the California Code of
23 Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Proctor falsely or
25 fraudulently issued electronic Certificate of Compliance No. MU016599C for that vehicle
26 without performing a bona fide inspection of the emission control devices and systems on the
27 vehicle as required by Health and Safety Code section 44012.

28 ///

1 b. Section 3340.30, subdivision (a): Respondent Proctor failed to inspect
2 and test the vehicle in accordance with Health and Safety Code section 44012.

3 c. Section 3340.41, subdivision (c): Respondent Proctor entered false
4 information into the Emission Inspection System ("EIS") for electronic Certificate of
5 Compliance No. MU916599C by entering vehicle identification information or emission control
6 information for a vehicle other than the vehicle being certified.

7 d. Section 3340.42: Respondent Proctor failed to conduct the required
8 smog tests and inspections on the vehicle in accordance with the Bureau's specifications.

9 **EIGHTH CAUSE FOR DISCIPLINE**

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

11 22. Respondent Proctor has subjected his technician license to discipline under
12 Health and Safety Code section 44072.2, subdivision (d), in that on or about August 1, 2007, he
13 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
14 electronic Certificate of Compliance No. MU016599C for the 1983 LAZYD motor home without
15 performing a bona fide inspection of the emission control devices and systems on that vehicle,
16 thereby depriving the People of the State of California of the protection afforded by the Motor
17 Vehicle Inspection Program.

18 **SURVEILLANCE OPERATION - AUGUST 2, 2007**

19 23. On or about August 2, 2007, the Bureau performed a videotaped
20 surveillance at Respondent Airport Smog's facility. The surveillance operation and information
21 obtained from the Bureau's VID revealed that from approximately 1049 hours and 1653 hours,
22 Respondent Proctor performed four (4) smog inspections that resulted in the issuance of
23 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set
24 forth in Table 1, below, and that those vehicles were in compliance with applicable laws and
25 regulations. In fact, Respondent Proctor failed to perform a fuel cap functional test on the
26 vehicles.

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Table 1

Date and Test Times	Vehicle Certified	Certificate No.	Details
8/2/2007 1049 hours to 1053 hours	1999 Chevrolet Lic. No. 6B39225	MU016600C	No functional fuel cap test performed.
8/2/2007 1136 hours to 1141 hours	1990 Ford Lic. No. 4D26599	MU133503C	No functional fuel cap test performed.
8/2/2007 1624 hours to 1629 hours	2001 Ford Lic. No. 4TYX619	No Certificate Issued	No functional fuel cap test performed.
8/2/2007 1653 hours to 1659 hours	1999 Honda Lic. No. 4HBR533	MU133506C	No functional fuel cap test performed.

NINTH CAUSE FOR DISCIPLINE

(Misleading Statements)

24. Respondent Airport Smog has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about August 2, 2007, it made statements which it knew or which by exercise of reasonable care it should have known were untrue or misleading by issuing the electronic certificates of compliance for the vehicles, set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, Respondent's technician, Respondent Proctor, failed to properly inspect the vehicles by failing to perform a functional fuel cap test on those vehicles.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

25. Respondent Airport Smog has subjected its registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about August 2, 2007, it committed acts which constitute fraud by issuing the electronic certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission control devices

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1 and systems on those vehicles, thereby depriving the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Violation of the Motor Vehicle Inspection Program)**

5 26. Respondent Airport Smog has subjected its station license to discipline
6 under Health and Safety Code section 44072.2, subdivision (a), in that on or about August 2,
7 2007, regarding the vehicles set forth in Table 1, above, it violated sections of that Code, as
8 follows:

9 a. **Section 44012, subdivision (f):** Respondent Airport Smog failed to
10 perform emission control tests on those vehicles in accordance with procedures prescribed by the
11 department.

12 b. **Section 44015, subdivision (b):** Respondent Airport Smog issued the
13 electronic certificates of compliance for those vehicles without properly testing and inspecting
14 them to determine if they were in compliance with section 44012 of that Code.

15 c. **Section 44059:** Respondent Airport willfully made false entries for the
16 electronic certificates of compliance by certifying that those vehicles had been inspected as
17 required when, in fact, they had not.

18 **TWELFTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

20 27. Respondent Airport Smog has subjected its station license to discipline
21 under Health and Safety Code section 44072.2, subdivision (c), in that on or about August 2,
22 2007, regarding the vehicles set forth in Table 1, above, it violated sections of the California
23 Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Airport Smog falsely or
25 fraudulently issued the electronic certificates of compliance for those vehicles without
26 performing bona fide inspections of the emission-control devices and systems on the vehicles as
27 required by Health and Safety Code section 44012.

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1 b. Section 3340.35, subdivision (c): Respondent Airport Smog issued the
2 electronic certificates of compliance for those vehicles even though the vehicles had not been
3 inspected in accordance with section 3340.42 of that Code.

4 c. Section 3340.42: Respondent Airport Smog failed to conduct the
5 required smog tests and inspections on those vehicles in accordance with the Bureau's
6 specifications.

7 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

9 28. Respondent Airport Smog has subjected its station license to discipline
10 under Health and Safety Code section 44072.2, subdivision (d), in that on or about August 2,
11 2007, regarding the vehicles set forth in Table 1, above, it committed acts involving dishonesty,
12 fraud or deceit whereby another was injured by issuing the electronic certificates of compliance
13 for those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle
15 Inspection Program.

16 **FOURTEENTH CAUSE FOR DISCIPLINE**

17 **(Violations of the Motor Vehicle Inspection Program)**

18 29. Respondent Proctor has subjected his technician license to discipline under
19 Health and Safety Code section 44072.2, subdivision (a), in that on or about August 2, 2007,
20 regarding the vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

21 a. Section 44012, subdivision (f): Respondent Proctor failed to determine
22 that all emission control devices and systems required by law were installed and functioning
23 correctly on those vehicles in accordance with test procedures.

24 b. Section 44032: Respondent Proctor failed to perform tests of the
25 emission control devices and systems on those vehicles in accordance with section 44012 of that
26 Code.

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1 c. **Section 44059:** Respondent Proctor entered false information for the
2 electronic certificates of compliance by certifying that those vehicles had been inspected as
3 required when, in fact, they had not.

4 **FIFTEENTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

6 30. Respondent Proctor has subjected his technician license to discipline under
7 Health and Safety Code section 44072.2, subdivision (c), in that on or about August 2, 2007,
8 regarding the vehicles set forth in Table 1, above, he violated sections of the California Code of
9 Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Proctor falsely or
11 fraudulently issued the electronic certificates of compliance for those vehicles without
12 performing bona fide inspections of the emission control devices and systems on the vehicles as
13 required by Health and Safety Code section 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Proctor failed to inspect
15 and test those vehicles in accordance with Health and Safety Code section 44012.

16 c. **Section 3340.41, subdivision (c):** Respondent Proctor entered false
17 information into the EIS for those vehicles by entering "Pass" for the functional fuel cap test
18 when, in fact, he failed to perform that test on those vehicles.

19 d. **Section 3340.42:** Respondent Proctor failed to conduct the required
20 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

21 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

23 31. Respondent Proctor has subjected his technician license to discipline under
24 Health and Safety Code section 44072.2, subdivision (d), in that on or about August 2, 2007, he
25 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the
26 electronic certificates of compliance for the vehicles set forth in Table 1, above, without
27 performing bona fide inspections of the emission control devices and systems on those vehicles,

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1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **SURVEILLANCE OPERATION - AUGUST 13, 2007**

4 32. On or about August 13, 2007, the Bureau performed a videotaped
5 surveillance at Respondent Airport Smog's facility. The surveillance operation and information
6 obtained from the Bureau's VID revealed that from approximately 1053 hours and 1658 hours,
7 Respondent Proctor performed seven (7) smog inspections that resulted in the issuance of
8 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set
9 forth in Table 2, below, and that those vehicles were in compliance with applicable laws and
10 regulations. In fact, Respondent Proctor failed to perform a functional fuel cap test on those
11 vehicles.

12 **Table 2**

13

Date and Test Times	Vehicle Certified	Certificate No.	Details
14 8/13/2007 15 1053 hours 16 to 1058 hours	1990 Chevrolet Lic. No. 6T12995	MU253616C	No functional fuel cap test performed.
17 8/13/2007 18 1311 hours 19 to 1317 hours	1996 Toyota Lic. No. 5K53945	MU253618C	No functional fuel cap test performed.
20 8/13/2007 21 1439 hours to 1449 hours	1997 Chevrolet Lic. No. 4HIL341	MU253620C	No functional fuel cap test performed.
22 8/13/2007 23 1528 hours to 1538 hours	1996 GMC Lic. No. 5HYN541	MU253622C	No functional fuel cap test performed.
24 8/13/2007 25 1556 hours to 1604 hours	1998 Ford Lic. No. 4CUW453	MU253624C	No functional fuel cap test performed.
26 8/13/2007 27 1647 hours to 28 1652	1994 Plymouth Lic. No. 3JYF127	MU253625C	No functional fuel cap test performed.

1 a. **Section 44012, subdivision (f):** Respondent Airport Smog failed to
2 perform emission control tests on those vehicles in accordance with procedures prescribed by the
3 department.

4 b. **Section 44015, subdivision (b):** Respondent Airport Smog issued the
5 electronic certificates of compliance for those vehicles without properly testing and inspecting
6 them to determine if they were in compliance with section 44012 of that Code.

7 c. **Section 44059:** Respondent Airport willfully made false entries for the
8 electronic certificates of compliance by certifying that those vehicles had been inspected as
9 required when, in fact, they had not.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

12 36. Respondent Airport Smog has subjected its station license to discipline
13 under Health and Safety Code section 44072.2, subdivision (c), in that on or about August 13,
14 2007, regarding the vehicles set forth in Table 2, above, it violated sections of the California
15 Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent Airport Smog falsely or
17 fraudulently issued the electronic certificates of compliance for those vehicles without
18 performing bona fide inspections of the emission control devices and systems on the vehicles as
19 required by Health and Safety Code section 44012.

20 b. **Section 3340.35, subdivision (c):** Respondent Airport Smog issued the
21 electronic certificates of compliance for those vehicles even though the vehicles had not been
22 inspected in accordance with section 3340.42 of that Code.

23 c. **Section 3340.42:** Respondent Airport Smog failed to conduct the
24 required smog tests and inspections on those vehicles in accordance with the Bureau's
25 specifications.

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1 regarding the vehicles set forth in Table 2, above, he violated sections of the California Code of
2 Regulations, title 16, as follows:

3 a. Section 3340.24, subdivision (c): Respondent Proctor falsely or
4 fraudulently issued the electronic certificates of compliance for the vehicles set forth in Table 2,
5 above, without performing bona fide inspections of the emission control devices and systems on
6 those vehicles as required by Health and Safety Code section 44012.

7 b. Section 3340.30, subdivision (a): Respondent Proctor failed to inspect
8 and test those vehicles in accordance with Health and Safety Code section 44012.

9 c. Section 3340.41, subdivision (c): Respondent Proctor entered false
10 information into the EIS for those vehicles by entering "Pass" for the functional fuel cap test
11 when, in fact, he failed to perform that test on those vehicles.

12 d. Section 3340.42: Respondent Proctor failed to conduct the required
13 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

14 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

16 40. Respondent Proctor has subjected his technician license to discipline under
17 Health and Safety Code section 44072.2, subdivision (d), in that on or about August 13, 2007, he
18 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the
19 electronic certificates of compliance for the vehicles set forth in Table 2, above, without
20 performing bona fide inspections of the emission control devices and systems on those vehicles,
21 thereby depriving the People of the State of California of the protection afforded by the Motor
22 Vehicle Inspection Program.

23 **SURVEILLANCE OPERATION - AUGUST 14, 2007**

24 41. On or about August 14, 2007, the Bureau performed a videotaped
25 surveillance at Respondent Airport Smog's facility. The surveillance operation and information
26 obtained from the Bureau's VID revealed that from approximately 0823 hours and 1710 hours,
27 Respondent Proctor performed five (5) smog inspections that resulted in the issuance of
28 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set

1 forth in Table 3, below, and that those vehicles were in compliance with applicable laws and
2 regulations. In fact, Respondent Proctor failed to perform a functional fuel cap test on those
3 vehicles.

4 Table 3

5

Date and Test Times	Vehicle Certified	Certificate No.	Details
8/14/2007 0823 hours to 0828 hours	1990 Toyota Lic. No. 3Y95158	MU253627C	No functional fuel cap test performed.
8/14/2007 0910 hours to 0914 hours	1990 Toyota Lic. No. 2NUU462	MU253628C	No functional fuel cap test performed.
8/14/2007 1111 hours to 1117 hours	2001 Chevrolet Lic. No. 4UBX446	MU253630C	No functional fuel cap test performed.
8/14/2007 1548 hours to 1552 hours	1998 Dodge Lic. No. 5W57282	MU253633C	No functional fuel cap test performed.
8/14/2007 1710 hours to 1714 hours	1998 Ford Lic. No. 4XVV483	MU253636C	No functional fuel cap test performed.

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19 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 42. Respondent Airport Smog has subjected its registration to discipline under
22 Code section 9884.7, subdivision (a)(1), in that on or about August 14, 2007, it made statements
23 which it knew or which by exercise of reasonable care it should have known were untrue or
24 misleading by issuing the electronic certificates of compliance for the vehicles, set forth in Table
25 3, above, certifying that those vehicles were in compliance with applicable laws and regulations
26 when, in fact, Respondent's technician, Respondent Proctor, failed to properly inspect the
27 vehicles by failing to perform a functional fuel cap test on those vehicles.

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1 2007, regarding the vehicles set forth in Table 3, above, it violated sections of the California
2 Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Airport Smog falsely or
4 fraudulently issued the electronic certificates of compliance for those vehicles without
5 performing bona fide inspections of the emission control devices and systems on the vehicles as
6 required by Health and Safety Code section 44012.

7 b. **Section 3340.35, subdivision (c):** Respondent Airport Smog issued the
8 electronic certificates of compliance for those vehicles even though the vehicles had not been
9 inspected in accordance with section 3340.42 of that Code.

10 c. **Section 3340.42:** Respondent Airport Smog failed to conduct the
11 required smog tests and inspections on those vehicles in accordance with the Bureau's
12 specifications.

13 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

15 46. Respondent Airport Smog has subjected its station license to discipline
16 under Health and Safety Code section 44072.2, subdivision (d), in that on or about August 14,
17 2007, regarding the vehicles set forth in Table 3, above, it committed acts involving dishonesty,
18 fraud or deceit whereby another was injured by issuing the electronic certificates of compliance
19 for those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby
20 depriving the People of the State of California of the protection afforded by the Motor Vehicle
21 Inspection Program.

22 **THIRTIETH CAUSE FOR DISCIPLINE**

23 **(Violations of the Motor Vehicle Inspection Program)**

24 47. Respondent Proctor has subjected his technician license to discipline under
25 Health and Safety Code section 44072.2, subdivision (a), in that on or about August 14, 2007,
26 regarding the vehicles set forth in Table 3, above, he violated sections of that Code, as follows:

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1 a. Section 44012, subdivision (f): Respondent Proctor failed to determine
2 that all emission control devices and systems required by law were installed and functioning
3 correctly on those vehicles in accordance with test procedures.

4 b. Section 44032: Respondent Proctor failed to perform tests of the
5 emission control devices and systems on those vehicles in accordance with section 44012 of that
6 Code.

7 c. Section 44059: Respondent Proctor entered false information for the
8 electronic certificates of compliance by certifying that those vehicles had been inspected as
9 required when, in fact, they had not.

10 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

12 48. Respondent Proctor has subjected his technician license to discipline under
13 Health and Safety Code section 44072.2, subdivision (c), in that on or about August 14, 2007,
14 regarding the vehicles set forth in Table 3, above, he violated sections of the California Code of
15 Regulations, title 16, as follows:

16 a. Section 3340.24, subdivision (c): Respondent Proctor falsely or
17 fraudulently issued the electronic certificates of compliance for those vehicles without
18 performing bona fide inspections of the emission control devices and systems on those vehicles
19 as required by Health and Safety Code section 44012.

20 b. Section 3340.30, subdivision (a): Respondent Proctor failed to inspect
21 and test those vehicles in accordance with Health and Safety Code section 44012.

22 c. Section 3340.41, subdivision (c): Respondent Proctor entered false
23 information into the EIS for those vehicles by entering "Pass" for the functional fuel cap test
24 when, in fact, he failed to perform that test on those vehicles.

25 d. Section 3340.42: Respondent Proctor failed to conduct the required
26 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

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1 a. Section 3340.24, subdivision (c): Respondent Airport Smog falsely or
2 fraudulently issued electronic Certificate of Compliance No. MW166607C for that vehicle
3 without performing a bona fide inspection of the emission control devices and systems on that
4 vehicle as required by Health and Safety Code section 44012.

5 b. Section 3340.35, subdivision (c): Respondent Airport Smog issued
6 electronic Certificate of Compliance No. MW166607C for that vehicle even though the vehicle
7 had not been inspected in accordance with section 3340.42 of that Code.

8 c. Section 3340.42: Respondent Airport Smog failed to conduct the
9 required smog tests and inspections on that vehicle in accordance with the Bureau's
10 specifications.

11 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

13 55. Respondent Airport Smog has subjected its station license to discipline
14 under Health and Safety Code section 44072.2, subdivision (d), in that on or about October 24,
15 2007, regarding the 1995 Toyota Corolla, it committed acts involving dishonesty, fraud or deceit
16 whereby another was injured by issuing electronic Certificate of Compliance No. MW166607C
17 for that vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby
18 depriving the People of the State of California of the protection afforded by the Motor Vehicle
19 Inspection Program.

20 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program)**

22 56. Respondent Moalej has subjected his technician license to discipline under
23 Health and Safety Code section 44072.2, subdivision (a), in that on or about October 24, 2007,
24 regarding the 1995 Toyota Corolla, he violated sections of that Code, as follows:

25 a. Section 44012, subdivision (f): Respondent Moalej failed to determine
26 that all emission control devices and systems required by law were installed and functioning
27 correctly on the vehicle in accordance with test procedures.

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1 b. Section 44032: Respondent Moalej failed to perform tests of the
2 emission control devices and systems on the vehicle in accordance with section 44012 of that
3 Code.

4 c. Section 44059: Respondent Moalej entered false information for
5 electronic Certificate of Compliance No. MW166607C by certifying that the vehicle had been
6 inspected as required when, in fact, it had not.

7 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

8 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

9 57. Respondent Moalej has subjected his technician license to discipline under
10 Health and Safety Code section 44072.2, subdivision (c), in that on or about October 24, 2007,
11 regarding the 1995 Toyota Corolla, he violated sections of the California Code of Regulations,
12 title 16, as follows:

13 a. Section 3340.24, subdivision (c): Respondent Moalej falsely or
14 fraudulently issued electronic Certificate of Compliance No. MW166607C for that vehicle
15 without performing a bona fide inspection of the emission control devices and systems on that
16 vehicle as required by Health and Safety Code section 44012.

17 b. Section 3340.30, subdivision (a): Respondent Moalej failed to inspect
18 and test that vehicle in accordance with Health and Safety Code section 44012.

19 c. Section 3340.41, subdivision (c): Respondent Moalej entered false
20 information into the EIS for the vehicle by entering "Pass" for the functional fuel cap test when,
21 in fact, he failed to perform that test on that vehicle.

22 d. Section 3340.42: Respondent Moalej failed to conduct the required
23 smog tests and inspections of that vehicle in accordance with the Bureau's specifications.

24 **FORTIETH CAUSE FOR DISCIPLINE**

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

26 58. Respondent Moalej has subjected his technician license to discipline under
27 Health and Safety Code section 44072.2, subdivision (d), in that on or about October 24, 2007,
28 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing

1 electronic Certificate of Compliance No. MW166607C for the 1995 Toyota Corolla without
2 performing a bona fide inspection of the emission control devices and systems on that vehicle,
3 thereby depriving the People of the State of California of the protection afforded by the Motor
4 Vehicle Inspection Program.

5 OTHER MATTERS

6 59. Under Code section 9884.7, subdivision (c), the director may invalidate
7 temporarily or permanently or refuse to validate, the registrations for all places of business
8 operated in this state by Bisheh, Inc., doing business as Airport Smog, upon a finding that it has,
9 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
10 to an automotive repair dealer.

11 60. Under Health and Safety Code section 44072.8, if Smog Check Test Only
12 Station License Number TD 221086, issued to Bisheh, Inc., doing business as Airport Smog, is
13 revoked or suspended, any additional license issued under this chapter in the name of said
14 licensee may be likewise revoked or suspended by the director.

15 61. Under Health and Safety Code section 44072.8, if Advanced Emission
16 Specialist Technician License Number EA 041149, issued to Charles William Proctor, is revoked
17 or suspended, any additional license issued under this chapter in the name of said licensee may
18 be likewise revoked or suspended by the director.

19 62. Under Health and Safety Code section 44072.8, if Advanced Emission
20 Specialist Technician License Number EA 045409, issued to Mohammad Moalej, is revoked or
21 suspended, any additional license issued under this chapter in the name of said licensee may be
22 likewise revoked or suspended by the director.

23 PRAYER

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

26 1. Temporarily or permanently invalidating Automotive Repair Dealer
27 Registration Number AD 221086, issued to Bisheh, Inc., doing business as Airport Smog;

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1 2. Temporarily or permanently invaliding any other automotive repair dealer
2 registration issued to Bisheh, Inc., doing business as Airport Smog;

3 3. Revoking or suspending Smog Check, Test Only Station License Number
4 TD 221086, issued to Bisheh, Inc., doing business as Airport Smog;

5 4. Revoking or suspending any additional license issued under this chapter in
6 the name of Bisheh, Inc., doing business as Airport Smog;

7 5. Revoking or suspending Advanced Emission Specialist Technician
8 Number EA 041149, issued to Charles William Proctor;

9 6. Revoking or suspending any additional license issued under this chapter in
10 the name of Charles William Proctor;

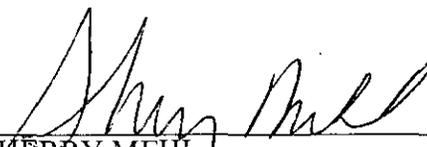
11 7. Revoking or suspending Advanced Emission Specialist Technician
12 License Number EA 04509, issued to Mohammad Moalej;

13 8. Revoking or suspending any additional license issued under this chapter in
14 the name of Mohammad Moalej;

15 9. Ordering Bisheh, Inc., Charles William Proctor and Mohammad Moalej to
16 pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement
17 of this case, pursuant to Code section 125.3; and,

18 10. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 9-3-08

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23 
24 SHERRY MEHL
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant