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

In the Matter of the Accusation Against:

THE SMOG SHOP
MOHANNAD EMANUEL ELHILU
25845 San Fernando Road, Unit 20
Santa Clarita, CA 91350

Automotive Repair Dealer Registration
No. AM 236874
Smog Check, Test Only, Station License
No. TM 236874

and

MOHANNAD EMANUEL ELHILU
22525 Barbacon Drive
Santa Clarita, CA 91350

Advanced Emission Specialist Technician
License No. EA 149889

Respondents.

Case No. 79/08-49

OAH No. L-2009091259

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.

This Decision shall become effective on 10-18-10.

IT IS SO ORDERED September 8, 2010.

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
SHAWN P. COOK
Deputy Attorney General
State Bar No. 117851
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-9954
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **THE SMOG SHOP; MOHANNAD EMANUEL ELHILU** **25845 San Fernando Road, Unit 20** **Santa Clarita, CA 91350** **Automotive Repair Dealer Registration No. AM 236874** **Smog Check Test Only Station License No. TM 236874,** and **MOHANNAD EMANUEL ELHILU** **22525 Barbacoa Drive** **Santa Clarita, CA 91350** **Advanced Emission Specialist Technician License No. EA 149889** Respondents.	Case No. 79/08-49 OAH No. L-2009091259 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She brought this action solely in her official capacity and is represented in this matter by Edmund G.

Brown Jr., Attorney General of the State of California, by Shawn P. Cook, Deputy Attorney General.

2. Respondent The Smog Shop: Mohannad Emanuel Elhilu (Respondent) is represented in this proceeding by attorney Michael M. Levin, Esq., whose address is WEGMAN, LEVIN & STANLEY; 5200 Lankershim Blvd., Ste. 850; North Hollywood, CA 91601.

3. On or about December 23, 2004, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration No. AM 236874 to The Smog Shop: Mohannad Emanuel Elhilu (Respondent). The Automotive Repair Dealer Registration expired on December 31, 2007, and has not been renewed.

4. On or about January 28, 2005, the Bureau of Automotive Repair issued Smog Check Test Only Station License No. TM 236874 to The Smog Shop: Mohannad Emanuel Elhilu (Respondent). The Smog Check Test Only Station License expired on December 31, 2007, and has not been renewed.

5. On or about December 1, 2004, the Bureau issued Advanced Emission Specialist Technician License Number EA 149889 ("technician license") to Mohannad Emanuel Elhilu ("Respondent Elhilu"). The technician license will expire on June 30, 2008, unless renewed.

JURISDICTION

6. Accusation No. 79/08-49 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 17, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/08-49 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/08-49. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/08-49.

11. Respondent agrees that his Automotive Repair Dealer Registration, his Smog Check Test Only Station License and his Advanced Emission Specialist Technician License are each and all subject to discipline and he agrees to be bound by the Director of Consumer Affairs (Director)'s imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of Automotive Repair, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or his designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the

time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. AM 236874 and Smog Check Test Only Station License No. TM 236874 issued to Respondent The Smog Shop; Mohannad Emanuel Elhilu; and Advanced Emission Specialist Technician License Number EA 149889 issued to Mohannad Emanuel Elhilu (Respondent) are each and all permanently invalidated and revoked.

1. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 79/08-49 shall be deemed to be true, correct, and admitted by Respondent when the Director determines whether to grant or deny the petition.

2. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, at such time Respondent shall pay to the Bureau its costs of $16,434.00, which are deferred until that time.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael M. Levin, Esq.. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Test Only Station License and Advanced Emission Specialist Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 7/13/10

THE SMOG SHOP; MOHANNAD EMANUEL ELHILU
Respondent

I have read and fully discussed with Respondent The Smog Shop; Mohannad Emanuel Elhilu the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/18/10

Michael M. Levin, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: _____

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General

SHAWN P. COOK
Deputy Attorney General
Attorneys for Complainant

LA2008100043 Stipulation.rtf

Exhibit A

Accusation No. 79/08-49

EDMUND G. BROWN JR., Attorney General
of the State of California
MARC D. GREENBAUM,
Supervising Deputy Attorney General
SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-9954
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against: **THE SMOG SHOP** 25845 San Fernando Road, Unit 20 **Santa Clarita, California 91350** **MOHANNAD ELHILU, a.k.a. ELHILU MOHANNAD, a.k.a. MOHANNAD EMANUEL ELHILU, OWNER** Automotive Repair Dealer Registration No. AM 236874 Smog Check Test Only Station License No. TM 236874, and **MOHANNAD EMANUEL ELHILU, a.k.a. MOHANNAD ELHILU, a.k.a. ELHILU MOHANNAD** 22525 Barbacoa Drive Santa Clarita, California 91350 Advanced Emission Specialist Technician License No. EA 149889 Respondents.	Case No. 79/08-49 O.A.H. No. **FIRST AMENDED ACCUSATION** **[SMOG]**

Sherry Mehl ("Complainant") alleges:

PARTIES

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

Automotive Repair Dealer Registration

2. On or about December 23, 2004, the Bureau issued Automotive Repair Dealer Registration Number AM 236874 ("registration") to Mohannad Elhilu, a.k.a. Mohannad Emanuel Elhilu, a.k.a. Elhilu Mohannad doing business as The Smog Shop ("Respondent Smog Shop"). The registration will expire on December 31, 2008, unless renewed.

Smog Check Test Only Station License

3. On or about January 28, 2005, the Bureau issued Smog Check Test Only Station License Number TM 236874 ("station license") to Respondent Smog Shop. The station license will expire on December 31, 2008, unless renewed.

Advanced Emission Specialist Technician License

4. On or about December 1, 2004, the Bureau issued Advanced Emission Specialist Technician License Number EA 149889 ("technician license") to Mohannad Emanuel Elhilu, a.k.a. Elhilu Mohannad ("Respondent Elhilu"). The technician license will expire on June 30, 2008, unless renewed.

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the 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) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> (4) Any other conduct which constitutes fraud.
>
> (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner

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the right of the automotive repair dealer to operate his or her other places of business.

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

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

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

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

9. Section 44072.2 of the Health and Safety Code states:

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.

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

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

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

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

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

COST RECOVERY

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

SURVEILLANCE OPERATION - SEPTEMBER 17, 2007

13. On or about September 17, 2007, Bureau personnel performed a videotaped surveillance at Respondent Smog Shop's facility. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 0843 hours and 1713 hours, Respondent Elhilu performed three (3) smog inspections that resulted in the issuance of the electronic certificates of compliance set forth in Table One, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Elhilu performed the smog inspections using the clean-piping[1] method by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the certificates of compliance. The vehicles certified were not in the test bay at the time of the smog inspections.

Table One

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Cert Issued
9/17/2007 0843 hours to 0851 hours	1985 Chevrolet C30 pickup Lic. No. 3B92247	1986 Honda Accord sedan Lic. No. 5GHE520	VJ873509C

1. "Clean-piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of 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.

9/17/2007 1627 hours to 1634 hours	1985 Ford Bronco II Lic. No. 2LEM564	1996 Mazda 626 Lic. No. 3NYJ396	VJ873516C
9/17/2007 1706 hours to 1713 hours	1996 Nissan Maxima Lic. No. 4JIS311	1996 Ford F250 pickup Lic. No. 5L16054	VJ873517C

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent Smog Shop has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about September 17, 2007, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued the electronic certificates of compliance for the vehicles set forth in Table One, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean-piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent Smog Shop has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about September 17, 2007, he committed acts which constitute fraud by issuing the electronic certificates of compliance for the vehicles set forth in Table One, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

16. Respondent Smog Shop has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about September 17, 2007, regarding the vehicles and certificates of compliance set forth in Table One, above, he violated sections of that Code, as follows:

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

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

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

FOURTH CAUSE FOR DISCIPLINE

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

17. Respondent Smog Shop has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about September 17, 2007, regarding the vehicles and certificates of compliance set forth in Table One, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

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

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

18. Respondent Smog Shop subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about September 17, 2007,

regarding the vehicles set forth in Table One, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic certificates of compliance for those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

19. Respondent Elhilu has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about September 17, 2007, regarding the vehicles and certificates of compliance set forth in Table One, above, he violated sections of that Code, as follows:

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

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

c. **Section 44059:** Respondent Elhilu entered false information into the Emission Inspection System ("EIS") for the electronic certificates of compliance, by certifying that those vehicles had been inspected as required when, in fact, they had not.

SEVENTH CAUSE FOR DISCIPLINE

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

20. Respondent Elhilu has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about September 17, 2007, regarding the vehicles and certificates of compliance set forth in Table One, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

b. **Section 3340.41, subdivision (c):** Respondent Elhilu entered false information for the electronic certificates of compliance for those vehicles by entering vehicle identification information or emission control information for vehicles other than the vehicles being tested.

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

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

SEARCH WARRANT EXECUTION - MARCH 13, 2008

22. On or about March 13, 2008, Investigators with the Los Angeles County District Attorney's Office (LADAI) and Bureau personnel served a duly issued search warrant on Respondent Smog Shop's facility. Respondent Elhilu voluntarily admitted to Bureau personnel that he is the owner of Respondent Smog Shop. Respondent stated that he had conducted "a few" clean-pipe smog certifications and that he knew this was illegal.

23. Respondent Elhilu identified Respondent Smog Shop's invoice #20020, dated February 28, 2008, involving a smog test that he performed that resulted in the issuance of an electronic certificate of compliance set forth in Table Two, below, certifying that he had tested and inspected the vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent Elhilu admitted that he performed the smog inspections using the clean-piping method by using the tail pipe emissions of a vehicle other than the vehicle being certified in order to issue the certificates of compliance.

Table Two

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Cert Issued
02/28/2008 1748 hours	1989 Chevrolet Caprice Passenger Lic. No. 5LGF301	Respondent admitted to clean-piping this vehicle	VN845460

NINTH CAUSE FOR DISCIPLINE

(Misleading Statements)

24. Respondent Smog Shop has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about February 28, 2008, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued the electronic certificate of compliance for the vehicle set forth in Table Two, above, certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle had been clean-piped.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

25. Respondent Smog Shop has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about February 28, 2008, he committed acts which constitute fraud by issuing the electronic certificate of compliance for the vehicle set forth in Table Two, above, without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ELEVENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

26. Respondent Smog Shop has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about February 28, 2008, regarding the vehicle and certificate of compliance set forth in Table Two, above, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (f):** Respondent Smog Shop failed to

perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b):** Respondent Smog Shop issued the electronic certificates of compliance for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

c. **Section 44059:** Respondent Smog Shop willfully made false entries for the electronic certificate of compliance by certifying that the vehicle had been inspected as required when, in fact, it had not.

TWELFTH CAUSE FOR DISCIPLINE

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

27. Respondent Smog Shop has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about February 28, 2008, regarding the vehicle and certificate of compliance set forth in Table Two, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent Smog Shop falsely or fraudulently issued the electronic certificate of compliance for the vehicle without performing a bona fide inspection of the emission control devices and systems on the vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.35, subdivision (c):** Respondent Smog Shop issued the electronic certificate of compliance for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42 of that Code.

c. **Section 3340.42:** Respondent Smog Shop failed to conduct the required smog test and inspection on the vehicle in accordance with the Bureau's specifications.

THIRTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

28. Respondent Smog Shop subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about February 28, 2008, regarding the vehicle set forth in Table Two, above, he committed acts involving dishonesty,

fraud or deceit whereby another was injured by issuing the electronic certificates of compliance for the vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

29. Respondent Elhilu has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about February 28, 2008, regarding the vehicle and certificate of compliance set forth in Table Two, above, he violated sections of that Code, as follows:

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

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

c. **Section 44059:** Respondent Elhilu entered false information into the Emission Inspection System ("EIS") for the electronic certificates of compliance, by certifying that the vehicle had been inspected as required when, in fact, it had not.

FIFTEENTH CAUSE FOR DISCIPLINE

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

30. Respondent Elhilu has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about February 28, 2008, regarding the vehicle and certificate of compliance set forth in Table Two, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

b. **Section 3340.41, subdivision (c):** Respondent Elhilu entered false

information for the electronic certificate of compliance for the vehicle by entering vehicle identification information or emission control information for a vehicle other than the vehicle being tested.

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

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

31. Respondent Elhilu has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about February 28, 2008, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic certificates of compliance set forth in Table Two, above, for the vehicle, without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

32. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop, upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

33. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TM 236874, issued to Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

34. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 149889, issued to Mohannad Emanuel Elhilu, also

known as Mohannad Elhilu, or Elhilu Mohannad, revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number AM 236874, issued to Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop;

2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop;

3. Revoking or suspending Smog Check Test Only Station License Number TM 236874, issued to Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, doing business as The Smog Shop;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 149889, issued to Mohannad Emanuel Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Mohannad Emanuel Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad;

7. Ordering Mohannad Elhilu, also known as Mohannad Emanuel Elhilu, or Elhilu Mohannad, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 6/12/08

SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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EDMUND G. BROWN JR., Attorney General
of the State of California
MARC D. GREENBAUM,
Supervising Deputy Attorney General
SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-9954
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against: **THE SMOG SHOP** 25845 San Fernando Road, Unit 20 Santa Clarita, California 91350 **MOHANNAD ELHILU, a.k.a. ELHILU MOHANNAD, a.k.a. MOHANNAD EMANUEL ELHILU, OWNER** Automotive Repair Dealer Registration No. AM 236874 Smog Check Test Only Station License No. TM 236874, and **MOHANNAD EMANUEL ELHILU, a.k.a. MOHANNAD ELHILU, a.k.a. ELHILU MOHANNAD** 22525 Barbacoa Drive Santa Clarita, California 91350 Advanced Emission Specialist Technician License No. EA 149889 Respondents.	Case No. 79/08-49 O.A.H. No. **SUPPLEMENT TO FIRST AMENDED A C C U S A T I O N** **[SMOG]**

Sherry Mehl ("Complainant") in her official capacity only, as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs, files this Supplement to the First Amended Accusation in case no. 79/08-49 that was previously filed on June 12, 2008. Except as indicated below, all other allegations remain unchanged.

Complainant supplements and adds at page 12, line 15 of the First Amended Accusation, the following:

SEVENTEENTH CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

32. Respondent Elhilu has subjected his registration, station license and technician license to discipline under Business and Professions Code section 490 in that on or about September 16, 2008, Respondent Elhilu was convicted by the Court on a plea of guilty to one (1) count of violating Penal Code sec. 502, subd. (c)(1) "knowingly accessing a computer with intent to defraud", in the Superior Court of the State of California, County of Los Angeles, Case No. BA339377, entitled *The People of the State of California v. Mohannad Emanuel Elhilu.*

a. The circumstances surrounding the conviction are that Respondent Elhilu performed a smog inspection that resulted in the issuance of an electronic certificate of compliance certifying that he had tested and inspected the vehicle and that the vehicle was in compliance with applicable laws and regulations, when in fact he had performed the inspection by the clean-piping method by using the tail pipe emissions of a vehicle other than the vehicle being certified in order to issue the certificate of compliance.

DATED: 2/23/09

SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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