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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. 79/10-29

13 **ALL STAR AUTO REPAIR AND SMOG**
1561 E. Whitmore Avenue
14 Ceres, California 95307
VIR SINGH SIDHU, PARTNER
JASPREET SINGH, PARTNER
15 **Automotive Repair Dealer Registration No.**
ARD 250767
16 **Smog Check Station License No. RC 250767**

ACCUSATION

SMOG CHECK

17 **JAGTAR SINGH**
2304 Snowy Egret Street
18 Modesto, California 95355
Advanced Emission Specialist Technician
19 **License No. EA 045037**

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 **Automotive Repair Dealer Registration**

27 2. On or about July 2, 2007, the Bureau Automotive Repair Dealer Registration Number
28 ARD 250767 ("registration") to All Star Auto Repair and Smog ("Respondent All Star"), with

1 Jaspreet Singh and Vir Singh as partners. The registration was in full force and effect at all times
2 relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

3 **Smog Check Station License**

4 3. On or about July 3, 2007, the Bureau issued Smog Check Station License Number
5 RC 250767 ("station license") to Respondent All Star. The station license was in full force and
6 effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless
7 renewed.

8 **Advanced Emission Specialist Technician License**

9 4. On a date uncertain in 1997, the Bureau issued Advanced Emission Specialist
10 Technician License Number EA 045037 ("technician license") to Jagtar Singh ("Respondent
11 Singh"). The technician license was in full force and effect at all times relevant to the charges
12 brought herein and will expire on September 30, 2009, unless renewed.

13 **STATUTORY PROVISIONS**

14 5. Section 9884.7 of the Code states, in pertinent part

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

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

21 (4) Any other conduct which constitutes fraud.

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

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

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

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

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

12 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

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

28 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.

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1 COST RECOVERY

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

6 VEHICLE INFORMATION DATABASE REVIEW

7 13. The Bureau reviewed the Vehicle Information Database ("VID") regarding a 1999
8 Jeep Grand Cherokee, License Plate No. 4HAS600. A review of those records revealed that on
9 October 30, 2008, Respondent Singh issued electronic Certificate of Compliance No.
10 NE823517C for that vehicle, certifying that he had tested and inspected the vehicle and that the
11 vehicle was in compliance with applicable laws and regulations. In fact, Respondent Singh
12 conducted that inspection using another vehicle for the OBDII functional test¹, resulting in the
13 issuance of the fraudulent certificate of compliance for the 1999 Jeep Grand Cherokee.

14 FIRST CAUSE FOR DISCIPLINE

15 (Untrue or Misleading Statements)

16 14. Respondent All Star's registration is subject to discipline pursuant to Code section
17 9884.7, subdivision (a)(1), in that on or about October 30, 2008, it made or authorized statements

18 ¹The On Board Diagnostics ("OBDII") functional test is an automated function of the
19 BAR-97 analyzer. During the OBDII functional test, the technician is required to connect an
20 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector ("DLC") which is
21 located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves
22 information from the vehicle's on-board computer about the status of the readiness indicators,
23 trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBDII functional
24 test, it will fail the overall inspection.

25 The presence of a fault code in the VID data indicates that the engine computer has
26 detected a failure within the system. The first time that a failure is detected, a two-trip fault is
27 stored in the Powertrain Control Module memory ("PCM"). If the PCM detects the first
28 occurrence of a two-trip fault, information about the failure is stored in the PCM memory as a
maturing fault code. The MIL will not illuminate and the smog check analyzer will not fail the
vehicle unless the fault is repeated during the next consecutive trip.

The PCM uses standardized Diagnostic Trouble Codes ("DTC") for most common faults.
The codes are comprised of a five (5) digit designation made of up a letter character followed by
numbers. The letter designation represents the sub-system that contains the offending component
or circuit. The number designations describe the origin of the code. A "0" designation is a
generic code for all manufacturers. A "1" designation is specific to a particular manufacturer.

1 which it knew or in the exercise of reasonable care it should have known to be untrue or
2 misleading by certifying that the 1999 Jeep Grand Cherokee had passed inspection and was in
3 compliance with applicable laws and regulations. In fact, Respondent Singh conducted the smog
4 inspection using another vehicle for the OBDII functional test in order to issue electronic
5 Certificate of Compliance No. NE823517C.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 15. Respondent All Star's registration is subject to discipline pursuant to Code section
9 9884.7, subdivision (a)(4), in that on or about October 30, 2008, it committed acts which
10 constitute fraud by issuing electronic Certificate of Compliance No. NE823517C for the 1999
11 Jeep Grand Cherokee without performing a bona fide inspection of the emission control devices
12 and systems on that vehicle, thereby depriving the People of the State of California of the
13 protection afforded by the Motor Vehicle Inspection Program.

14 **THIRD CAUSE FOR DISCIPLINE**

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

16 16. Respondent All Star's station license is subject to discipline pursuant to Health and
17 Safety Code section 44072.2, subdivision (a), in that on or about October 30, 2008, regarding the
18 1999 Jeep Grand Cherokee, it failed to comply with the following sections of that Code:

19 a. **Section 44012, subdivision (a):** Respondent All Star failed to determine that all
20 emission control devices and systems required by law were installed and functioning correctly in
21 accordance with test procedures.

22 b. **Section 44012, subdivision (f):** Respondent All Star failed to perform emission
23 control tests in accordance with procedures prescribed by the department.

24 c. **Section 44015, subdivision (b):** Respondent All Star issued electronic Certificate of
25 Compliance No. NE823517C without properly testing and inspecting that vehicle to determine it
26 is was in compliance with section 44012 of that Code.

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1 d. **Section 44059:** Respondent All Star willfully made false entries for electronic
2 Certificate of Compliance No. NE823517C, certifying that the vehicle had been inspected as
3 required when, in fact, it had not.

4 **FOURTH CAUSE FOR DISCIPLINE**

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

6 17. Respondent All Star's station license is subject to discipline pursuant to Health and
7 Safety Code section 44072.2, subdivision (c), in that on or about October 30, 2008, regarding the
8 1999 Jeep Grand Cherokee, it violated the following sections of the California Code of
9 Regulations, title 16:

10 a. **Section 3340.24, subdivision (c):** Respondent All Star falsely or fraudulently issued
11 electronic Certificate of Compliance No. NE823517C without performing a bona fide inspection
12 of the emission control devices and systems on that vehicle as required by Health and Safety
13 Code section 44012.

14 c. **Section 3340.35, subdivision (c):** Respondent All Star issued electronic Certificate
15 of Compliance No. NE823517C even though that vehicle had not been inspected in accordance
16 with section 3340.42 of that Code.

17 d. **Section 3340.42:** Respondent All Star failed to conduct the required smog tests and
18 inspections in accordance with the Bureau's specifications.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

21 18. Respondent All Star's station license is subject to discipline pursuant to Health and
22 Safety Code section 44072.2, subdivision (d), in that on or about October 30, 2008, regarding the
23 1999 Jeep Grand Cherokee, it committed acts involving dishonesty, fraud or deceit whereby
24 another was injured by issuing electronic Certificate of Compliance No. NE823517C, without
25 performing a bona fide inspection of the emission control devices and systems on that vehicle,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.
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1 SIXTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 19. Respondent Singh's technician license is subject to discipline pursuant to Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about October 30, 2008, regarding the
5 1999 Jeep Grand Cherokee, he failed to comply with the following sections of that Code:

6 a. **Section 44012, subdivision (a):** Respondent Singh failed to determine that all
7 emission control devices and systems required by law were installed and functioning correctly in
8 accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent Singh failed to perform emission control
10 tests in accordance with procedures prescribed by the department.

11 c. **Section 44032:** Respondent Singh failed to perform tests of the emission control
12 devices and systems in accordance with section 44012 of that Code.

13 d. **Section 44059:** Respondent Singh willfully made false entries for electronic
14 Certificate of Compliance No. NE823517C, certifying that the vehicle had been inspected as
15 required when, in fact, it had not.

16 SEVENTH CAUSE FOR DISCIPLINE

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

18 20. Respondent Singh's technician license is subject to discipline pursuant to Health and
19 Safety Code section 44072.2, subdivision (c), in that on or about October 30, 2008, regarding the
20 1999 Jeep Grand Cherokee, he violated the following sections of the California Code of
21 Regulations, title 16:

22 a. **Section 3340.24, subdivision (c):** Respondent Singh falsely or fraudulently issued
23 electronic Certificate of Compliance No. NE823517C without performing a bona fide inspection
24 of the emission control devices and systems on that vehicle as required by Health and Safety
25 Code section 44012.

26 b. **Section 3340.30, subdivision (a):** Respondent Singh failed to inspect and test that
27 vehicle in accordance with Health and Safety Code section 44012.
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1 c. **Section 3340.41, subdivision (c):** Respondent Singh entered false information into
2 the EIS for electronic Certificate of Compliance No. NE823517C by entering vehicle
3 identification information or emission control information for a vehicle other than the vehicle
4 being certified.

5 d. **Section 3340.42:** Respondent Singh failed to conduct the required smog tests and
6 inspections in accordance with the Bureau's specifications.

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 21. Respondent Singh's technician license is subject to discipline pursuant to Health and
10 Safety Code section 44072.2, subdivision (d), in that on or about October 30, 2008, regarding the
11 1999 Jeep Grand Cherokee, he committed acts involving dishonesty, fraud or deceit whereby
12 another was injured by issuing electronic Certificate of Compliance No. NE823517C, without
13 performing a bona fide inspection of the emission control devices and systems on that vehicle,
14 thereby depriving the People of the State of California of the protection afforded by the Motor
15 Vehicle Inspection Program.

16 **OTHER MATTERS**

17 22. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
18 or permanently or refuse to validate, the registrations for all places of business operated in this
19 state by All Star Auto Repair and Smog, upon a finding that it has, or is, engaged in a course of
20 repeated and willful violations of the laws and regulations pertaining to an automotive repair
21 dealer.

22 23. Under Health and Safety Code section 44072.8, if Smog Check Station License
23 Number RC 250767, issued to All Star Auto Repair and Smog, is revoked or suspended, any
24 additional license issued under this chapter in the name of said licensee may be likewise revoked
25 or suspended by the director.

26 24. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
27 Technician License Number EA 045037, issued to Jagtar Singh, is revoked or suspended, any
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1 additional license issued under this chapter in the name of said licensee may be likewise revoked
2 or suspended by the director.

3 **PRAYER**

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
7 Number ARD 250767, issued to All Star Auto Repair and Smog;

8 2. Temporarily or permanently invalidating any other registration issued in the name of
9 All Star Auto Repair and Smog;

10 3. Revoking or suspending Smog Check Station License Number RC 250767, issued to
11 All Star Auto Repair and Smog;

12 4. Revoking or suspending any additional license issued under this chapter in the name
13 of All Star Auto Repair and Smog;

14 5. Revoking or suspending Advanced Emission Specialist Technician License Number
15 EA 045037, issued to Jagtar Singh;

16 6. Revoking or suspending any additional license issued under this chapter in the name
17 of Jagtar Singh;

18 7. Ordering All Star Auto Repair and Smog and Jagtar Singh to pay the Bureau of
19 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
20 pursuant to Business and Professions Code section 125.3; and,

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

22
23 DATED: 10/28/09

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

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