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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:

11 **VISTA TEST ONLY, INC. DBA VISTA TEST**  
12 **ONLY CENTER; SISAK KESHISHYAN;**  
13 **SIRANUSH KESHISHYAN**  
14 **2655 E. Colorado Blvd, #D**  
**Pasadena, CA 91107**

15 **Automotive Repair Dealer Registration No.**  
**ARD 251558**  
16 **Smog Check, Test Only, Station License No.**  
**TC 251558**

17 **SISAK KESHISHYAN**  
18 **1961 Brigden Road**  
**Pasadena, CA 91104**  
19 **Smog Check Inspector License No. EO 154395**  
20 **Smog Check Repair Technician License No. EI**  
**154395 (formerly Advanced Emission**  
**Specialist Technician No. EA 154395)**

21 Respondents.

Case No. 79/13-79

**FIRST AMENDED ACCUSATION**

22 **PARTIES**

23 1. At the time of the filing of the Accusation, John Wallauch was the Chief of the  
24 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs. He brought this  
25 action solely in his official capacity. Patrick Dorais ("Complainant") is currently the Acting  
26 Chief of the Bureau and continues to bring this action solely in his official capacity.

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1 13. Section 9884.7 states, in pertinent part:

2 (a) The director, where the automotive repair dealer cannot show there was a  
3 bona fide error, may deny, suspend, revoke, or place on probation the registration of  
4 an automotive repair dealer for any of the following acts or omissions related to the  
5 conduct of the business of the automotive repair dealer, which are done by the  
6 automotive repair dealer or any automotive technician, employee, partner, officer, or  
7 member of the automotive repair dealer.

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

11 . . . .

12 (4) Any other conduct that constitutes fraud.

13 . . . .

14 (6) Failure in any material respect to comply with the provisions of this  
15 chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or  
16 regulations adopted pursuant to it.

17 . . . .

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

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

13. Section 9884.9 states, in pertinent part:

21 (a) The automotive repair dealer shall give to the customer a written estimated  
22 price for labor and parts necessary for a specific job. No work shall be done and no  
23 charges shall accrue before authorization to proceed is obtained from the customer.  
24 No charge shall be made for work done or parts supplied in excess of the estimated  
25 price without the oral or written consent of the customer that shall be obtained at  
26 some time after it is determined that the estimated price is insufficient and before the  
27 work not estimated is done or the parts not estimated are supplied. Written consent or  
28 authorization for an increase in the original estimated price may be provided by  
electronic mail or facsimile transmission from the customer. The bureau may specify  
in regulation the procedures to be followed by an automotive repair dealer when an  
authorization or consent for an increase in the original estimated price is provided by  
electronic mail or facsimile transmission. If that consent is oral, the dealer shall make  
a notation on the work order of the date, time, name of person authorizing the

1 additional repairs and telephone number called, if any, together with a specification of  
2 the additional parts and labor and the total additional cost . . .

3 **REGULATORY PROVISIONS**

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

7 16. Health and Safety Code Section 44012 states:

8 The test at the smog check stations shall be performed in accordance with procedures  
9 prescribed by the department and may require loaded mode dynamometer testing in  
10 enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic  
11 system, or other appropriate test procedures as determined by the department in  
12 consultation with the state board. The department shall implement testing using  
13 onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle  
14 testing, on model year 2000 and newer vehicles only, beginning no earlier than  
15 January 1, 2013. However, the department, in consultation with the state board, may  
16 prescribe alternative test procedures that include loaded mode dynamometer or two-  
17 speed idle testing for vehicles with onboard diagnostic systems that the department  
18 and the state board determine exhibit operational problems. The department shall  
19 ensure, as appropriate to the test method, the following:

20 (a) Emission control systems required by state and federal law are reducing  
21 excess emissions in accordance with the standards adopted pursuant to subdivisions  
22 (a) and (c) of Section 44013.

23 . . . .

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

17. Health and Safety Code Section 44015 states, in pertinent part:

(b) If a vehicle meets the requirements of Section 44012, a smog check station  
licensed to issue certificates shall issue a certificate of compliance or a certificate of  
noncompliance.

18. Health and Safety Code Section 44032 states:

No person shall perform, for compensation, tests or repairs of emission control  
devices or systems of motor vehicles required by this chapter unless the person  
performing the test or repair is a qualified smog check technician and the test or  
repair is performed at a licensed smog check station. Qualified technicians shall  
perform tests of emission control devices and systems in accordance with Section  
44012.

19. Health and Safety Code section 44072.2 states:

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

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

5 . . . .

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

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

9 . . . .

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

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

16 21. Health and Safety Code section 44072.8 states:

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

19 22. California Code of Regulations, title 16, section 3340.30, subdivision (a), provides, in  
20 pertinent part, that a licensed technician shall inspect, test and repair vehicles in accordance with  
21 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and  
22 section 3340.42 of the California Code of Regulations.

23 23. California Code of Regulations, title 16, section 3340.35, subdivision (c), provides, in  
24 pertinent part, that a licensed station shall issue a certificate of compliance or noncompliance to  
25 the owner or operator of any vehicle that has been inspected in accordance with the procedures  
26 specified in section 3340.42 of the California Code of Regulations and have all the required  
27 emission control equipment and devices installed and functioning correctly.

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1 applicable laws and regulations when the vehicle could not have passed the visual portion of the  
2 smog inspection because the PCV components had been removed. The Operator paid  
3 Respondent \$48.00 and was provided with a copy of Invoice No. [REDACTED] as well as a Vehicle  
4 Inspection Report.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 28. Respondent's Registration is subject to discipline under section 9884.7, subdivision  
8 (a)(1), in that on or about October 18, 2012, Respondent made statements which he knew or  
9 which by exercise of reasonable care should have known to be untrue or misleading by issuing  
10 electronic Certificate of Compliance No. [REDACTED] for the Bureau's 2000 Ford, certifying that  
11 the vehicle was in compliance with applicable laws and regulations when the vehicle could not  
12 have passed the visual portion of the smog inspection because PCV components had been  
13 removed from the vehicle.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 29. Respondent's Registration is subject to discipline under section 9884.7, subdivision  
17 (a)(4), and Respondent's Station License is subject to discipline pursuant to Health & Safety  
18 Code section 44072.2, subdivision (d), in that on or about October 18, 2012, Respondent  
19 committed acts constituting fraud whereby another was injured by issuing electronic Certificate  
20 of Compliance No. [REDACTED] for the 2000 Ford without performing a bona fide inspection of the  
21 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
22 California of the protection afforded by the Motor Vehicle Inspection Program.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Automotive Repair Act)**

25 30. Respondent's Registration is subject to discipline under section 9884.7, subdivision  
26 (a)(6), in that on or about October 18, 2012, Respondent failed to comply with the following  
27 section of the Automotive Repair Act:  
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1 a. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a  
2 written estimated price for parts and labor for a specific job.

3 **FOURTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent's Station License is subject to discipline pursuant to Health & Safety  
6 Code section 44072.2, subdivision (a), in that on or about October 18, 2012, regarding the 2000  
7 Ford, Respondent failed to comply with the following sections of the Health and Safety Code:

8 a. **Section 44012, subdivision (f):** Respondent failed to perform emission control  
9 inspections of the vehicle in accordance with procedures prescribed by the department.

10 b. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of  
11 Compliance No. [REDACTED] for the 2000 Ford without properly inspecting the vehicle to  
12 determine if it was in compliance with Health & Safety Code section 44012.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations)**

15 32. Respondent's Station License is subject to discipline pursuant to Health & Safety  
16 Code section 44072.2, subdivision (c), in that on or about October 18, 2012, regarding the 2000  
17 Ford, Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
18 follows:

19 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of  
20 Compliance No. [REDACTED] for the 2000 Ford vehicle, even though the vehicle had not been  
21 inspected in accordance with section 3340.42.

22 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the  
23 Emissions Inspection System unit by entering "Pass" for the visual portion of the inspection when  
24 the vehicle could not have passed the visual portion of the smog inspection because PCV  
25 components had been removed from the vehicle.

26 c. **Section 3340.42:** Respondent failed to perform an emission control inspection of the  
27 vehicle in accordance with procedures prescribed by the department.

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**SIXTH CAUSE FOR DISCIPLINE**

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

33. Respondent Sisak’s Technician Licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about October 18, 2012, regarding the 2000 Ford, Respondent Sisak violated the following sections of the Health and Safety Code:

- a. **Section 44012, subdivision (f):** Respondent Sisak failed to perform emission control inspections of the vehicle in accordance with procedures prescribed by the department.
- b. **Section 44032:** Respondent Sisak failed to perform an inspection of the emission control devices and systems on the vehicle in accordance with section 44012 of the Health and Safety Code.

**SEVENTH CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations)**

34. Respondent Sisak’s Technician Licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c) in that, on or about October 18, 2012, regarding the 2000 Ford, Respondent Sisak violated the following sections of the California Code of Regulations, title 16:

- a. **Section 3340.30, subdivision (a):** Respondent Sisak failed to perform the emission control inspection in accordance with Health and Safety Code section 44012.
- b. **Section 3340.41, subdivision (c):** Respondent Sisak entered false information into the Emissions Inspection System unit by entering “Pass” for the visual portion of the inspection when the vehicle could not have passed the visual portion of the smog inspection because PCV components had been removed from the vehicle.
- c. **Section 3340.42:** Respondent Sisak failed to perform an emission control inspection of the vehicle in accordance with the Bureau’s specifications.

**EIGHTH CAUSE FOR DISCIPLINE**

**(Dishonesty, Fraud or Deceit)**

35. Respondent Sisak’s Technician Licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about October 18, 2012,

1 Respondent Sisak committed acts involving dishonesty, fraud or deceit whereby another was  
2 injured by issuing electronic Certificate of Compliance No. [REDACTED] for the 2000 Ford without  
3 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
4 thereby depriving the People of the State of California of the protection afforded by the Motor  
5 Vehicle Inspection Program.

6 **DISCIPLINE CONSIDERATIONS: PRIOR CITATIONS**

7 36. To determine the degree of discipline, if any, to be imposed on Respondents,  
8 Complainant alleges the following:

9 a. On or about May 16, 2011, the Bureau issued Citation No. C2011-1326 against  
10 Respondent for violating Health and Safety Code section 44012(f) (failure to determine the  
11 emission control devices and systems required by State and Federal law are installed and  
12 functioning correctly in accordance with test procedures). The Bureau assessed civil penalties  
13 totaling \$1000 against Respondent for the violations. Respondent complied with this citation on  
14 June 17, 2011.

15 b. On or about November 10, 2011, the Bureau issued Citation No. C2012-0449 against  
16 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a  
17 visual/functional check of emission control devices according to procedures prescribed by the  
18 department). The Bureau assessed civil penalties totaling \$1,500 against Respondent for the  
19 violations. Respondent complied with this citation on December 22, 2011.

20 c. On or about February 3, 2012, the Bureau issued Citation No. C2012-0804 against  
21 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a visual  
22 check of emission control devices according to procedures prescribed by the department). The  
23 Bureau assessed civil penalties totaling \$1,500 against Respondent for the violations. Respondent  
24 complied with this citation on March 16, 2012.

25 d. On or about May 16, 2011, the Bureau issued Citation No. M2011-1327 against  
26 Respondent Sisak for violating Health and Safety Code section 44032 (Qualified technicians shall  
27 perform tests of emission control systems and devices in accordance with section 44012 of the  
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1 H&S Code). Respondent Sisak was required to attend an 8-hour training course. On or about  
2 June 3, 2011, Respondent Sisak completed the required training course.

3 e. On or about November 10, 2011, the Bureau issued Citation No. M2012-0450 against  
4 Respondent Sisak for violating Health and Safety Code section 44032 (Qualified technicians shall  
5 perform tests of emission control systems and devices in accordance with section 44012 of the  
6 H&S Code). Respondent Sisak was required to attend a 16-hour training course. On or about  
7 December 22, 2011, Respondent Sisak completed the required training course.

8 f. On or about February 3, 2012, the Bureau issued Citation No. M2012-0805 against  
9 Respondent Sisak for violating Health and Safety Code section 44032 (Qualified technicians shall  
10 perform tests of emission control systems and devices in accordance with section 44012 of the  
11 H&S Code). Respondent Sisak was required to attend a 68-hour training course. On or about  
12 April 13, 2012, Respondent Sisak completed the required training course.

13 **OTHER MATTERS**

14 37. Pursuant to section 9884.7, subdivision (c), the director may suspend, revoke, or  
15 place on probation the registrations for all places of business operated in this state by Vista Test  
16 Only Inc., Sisak Keshishyan – President and Siranush Keshishyan – Secretary/Treasurer, upon a  
17 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the  
18 laws and regulations pertaining to an automotive repair dealer.

19 38. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
20 Station License Number TC 251558, issued to Vista Test Only Inc., Sisak Keshishyan – President  
21 and Siranush Keshishyan – Secretary/Treasurer, doing business as Vista Test Only Center, is  
22 revoked or suspended, any additional license issued under this chapter in the name of said  
23 licensees may be likewise revoked or suspended by the director.

24 39. Pursuant to Health and Safety Code section 44072.8, if Respondent Sisak  
25 Keshishyan's Technician Licenses, currently designated as EO 154395 and EI 154395, are  
26 revoked or suspended, any additional license issued under this chapter in the name of said  
27 licensee may be likewise revoked or suspended by the director.

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**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. Revoking or suspending Automotive Repair Dealer Registration Number ARD 251558, issued to Vista Test Only Inc., Sisak Keshishyan - President and Siranush Keshishyan – Secretary/Treasurer, doing business as Vista Test Only Center;

2. Revoking or suspending any other automotive repair dealer registration issued to Vista Test Only Inc., Sisak Keshishyan - President and Siranush Keshishyan – Secretary/Treasurer;

3. Revoking or suspending Smog Check, Test Only, Station License Number TC 251558, issued to Vista Test Only Inc., Sisak Keshishyan - President and Siranush Keshishyan – Secretary/Treasurer, doing business as Vista Test Only Center;

4. Revoking or suspending any additional license issued under chapter 5 of the Health and Safety Code in the name of Vista Test Only Inc., Sisak Keshishyan - President and Siranush Keshishyan – Secretary/Treasurer;

5. Revoking or suspending Sisak Keshishyan’s Technician Licenses, currently designated as EO 154395 and EI 154395;

6. Revoking or suspending any additional license issued under chapter 5 of the Health and Safety Code in the name of Sisak Keshishyan;

7. Ordering Vista Test Only Inc., Sisak Keshishyan - President and Siranush Keshishyan – Secretary/Treasurer to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: September 25, 2013



Patrick Dorais  
Acting Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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