

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

In the Matter of the Accusation Against:

**VISTA TEST ONLY, INC., doing business  
as VISTA TEST ONLY CENTER;  
SISAK KESHISHYAN, President;  
SIRANUSH KESHISHYAN,  
Secretary/Treasurer**

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

**SISAK KESHISHYAN**

Smog Check Inspector License No.  
EO 154395  
Smog Check Repair Technician License No.  
EI 154395 (formerly Advanced Emission  
Specialist Technician License No. EA  
154395),

Respondents.

Case No.: 79/13-79

OAH No. 2013060893

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective

July 29, 2014

DATED: June 10, 2014

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

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FOR THE BUREAU OF AUTOMOTIVE REPAIR  
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Automotive Repair Dealer Registration No.  
ARD 251558  
Smog Check, Test Only, Station License No.  
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SISAK KESHISHYAN  
Smog Check Inspector License No. EO 154395  
Smog Check Repair Technician License No.  
EI 154395 (formerly Advanced Emission  
Specialist Technician License No. EA 154395),

Respondents.

Case No.: 79/13-79

OAH No.: 2013060893

**PROPOSED DECISION**

Christopher Ruiz, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Los Angeles, California on November 6, 2013. The record was closed and the matter was submitted for decision at the conclusion of the hearing. Thereafter, Administrative Law Judge Ruiz was unable to issue a proposed decision within thirty (30) days. On March 21, 2014, the parties filed a Joint Stipulation agreeing to an alternate Administrative Law Judge writing and issuing a proposed decision after review of the administrative record consisting of the written transcript of the November 6, 2013 hearing and accompanying exhibits. On April 30, 2014, pursuant to the parties' Joint Stipulation, Presiding Administrative Law Judge Susan L. Formaker assigned this matter to Administrative Law Judge Jennifer M. Russell who, having read the written hearing transcript and having considered all arguments and exhibits admitted in evidence, makes the following Factual Findings, Legal Conclusions, and Order.

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## FACTUAL FINDINGS

1. Zachary T. Fanselow, Deputy Attorney General, Department of Justice, Office of the Attorney General, represented complainant John Wallauch, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). William Ferreira, Attorney at Law, represented Vista Test Only, Inc. and Sisak Keshishyan, President, who was present at the hearing.

2. No appearance was made on behalf of Siranush Keshishyan, Secretary/Treasurer, who was not present at the hearing.<sup>1</sup>

3. Complainant made the Accusation while acting in his official capacity. Complainant seeks to discipline the automotive repair dealer registration and station license issued to Vista Test Only, Inc., doing business as Vista Test Only Center, and the technician license issued to Sisak Keshishyan, and to obtain an order for reimbursement of its costs of investigation and prosecution because respondents<sup>2</sup> allegedly made untrue or misleading statements, engaged in conduct constituting fraud, and failed to comply with the requirements of the Automotive Repair Act and Motor Vehicle Inspection Program. Respondents presented evidence in support of continued registration and licensure and in opposition to the order sought by complainant.

4. In 2007, the Bureau issued Advanced Emission Specialist Technician License number EA 154395 to respondent Sisak Keshishyan. This emission specialist license was renewed as Smog Check Inspector License number EO 154395 and Smog Check Repair Technician License number EI 154395, both of which expire August 31, 2015.

5. In August 17, 2007, the Bureau issued Automotive Repair Dealer Registration ARD 251558 to Vista Test Only Inc. with respondent Sisak Keshishyan as president and respondent Siranush Keshishyan as secretary/treasurer. The registration expires July 31, 2014.

6. On August 28, 2007, the Bureau issued Smog Check Test Only Station License number TC 251558 to Vista Test Only Inc. doing business as Vista Test Only Center. The station license expires July 31, 2014.

7. On three separate occasions—May 16, 2011, November 10, 2011, and February 3, 2012—the Bureau conducted undercover-documented vehicle operations in

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<sup>1</sup> Complainant alleges no cause for discipline against any license Siranush Keshishyan holds. Accordingly, the Administrative Law Judge makes no determination regarding Siranush Keshishyan.

<sup>2</sup> Consistent with the Accusation in this matter, “respondents” denotes Vista Test Only Inc. doing business as Vista Test Only Center and Sisak Keshishyan, unless otherwise indicated.

which respondent Sisak Keshishyan (respondent Sisak), while working at Vista Test Only Center, issued smog check certificates of compliance to vehicles which were not in compliance with state and federal laws. On each of these three occasions the Bureau issued citations to Vista Test Only Center and respondent Sisak charging them with violations of Health and Safety Code sections 44012, subdivision (f), and 44032 for failure to perform a visual/functional check of emission control devices according to procedures prescribed by the Department. Vista Test Only Center paid fines. Respondent Sisak completed, respectively, an eight-hour training course, a 16-hour training course, and a 68-hour training course. Following each of these three citations, the Bureau conducted a citation conference with respondents. The Bureau informed respondents that it may employ another documented vehicle or conduct a station inspection to confirm their compliance with the law.

8. On October 18, 2012, Bureau personnel sent a 2000 Ford Explorer to Vista Test Only Center after Program Representative Allen Palad documented that modified emission control components were present in the vehicle. Palad removed the Positive Crankcase Ventilation (PCV) components consisting of the PCV valve, PCV hose, and PCV breather hose from the vehicle. Program Representative Palad replaced these PCV components with two orifice caps, a vacuum plug, and a non-Original Equipment Manufacturer (OEM) open breather filter. The PCV system is necessary to prevent the release of crankcase emissions into the atmosphere. Removal of the PCV system causes the 2000 Ford Explorer to release crankcase emissions into the atmosphere through the non-OEM open breather filter. A California Two Speed Idle (TSI) Smog Check inspection requires a licensed technician to visually inspect a vehicle's emission components for their presence and proper installation. When there are any missing, modified, disconnected, or defective emission control components, the licensed technician is required to fail the vehicle on the visual portion of the test for the PCV system. After he modified the 2000 Ford Explorer, Program Representative Palad performed a California TSI Smog Check on the vehicle, which failed the visual portion of the test for modified PCV component. Program Representative Palad generated a Vehicle Inspection Report printout that appropriately indicated the failing results.

9. An undercover operator drove the Ford Explorer to Vista Test Only Center, and requested a smog inspection, which respondent Sisak performed without first providing the undercover operator with an estimate of costs for necessary labor and parts. As configured, the Ford Explorer should have failed the visual component of the smog inspection. Respondent Sisak nonetheless passed the Ford Explorer on the visual component of the smog inspection, and he issued Certificate of Compliance number [REDACTED]. Respondent gave the undercover operator Smog Test-Only Invoice number [REDACTED] and obtained \$48 dollars from the undercover operator.

10. The preponderance of evidence establishes that respondent Sisak acting on behalf of Vista Test Only Center failed to conduct a visual check of the Ford Explorer's PCV system for missing component parts during a California TSI Smog Check as required by Health and Safety Code sections 44012, subdivisions (a) and (f), and 44032.

11. The preponderance of evidence establishes that respondent Sisak acting on behalf of Vista Test Only Center issued a certificate of compliance for the 2000 Ford Explorer with missing PCV component parts in violation of Health and Safety Code section 44015, subdivision (b), and California Code of Regulations, title 16, section 3340.42, subdivision (e).

12. The preponderance of the evidence establishes that respondent Sisak acting on behalf of Vista Test Only Center made untrue and misleading statements regarding the 2000 Ford Explorer's conformity with the requirements of the Department's Motor Vehicle Inspection Program and the Automotive Repair Act as set forth in Legal Conclusions 1 through 6, inclusive.

13. The preponderance of the evidence establishes that respondent Sisak acting on behalf of Vista Test Only Center engaged in fraud when he issued a certificate of compliance for the 2000 Ford Explorer.

14. At the hearing respondent Sisak maintained that when he inspected the Ford Explorer he was distraught over his brother's illness and eventual death. According to respondent Sisak, he had not seen his brother, who resided abroad, since 1988, and, for financial reasons, he was unable to travel to be with his brother. Respondent Sisak's physician wrote a letter stating that he "had extreme stress and grieving to [sic] his brother's illness and consequently death. He was depressed which was manifested in poor concentration, sleep deprivation and unstable blood pressure. His symptoms were quite severe and could have affected his work responsibilities. He is a nice man who was grief stricken." (Ex. A.) Respondent's contentions are rejected because if, as he maintains, that on October 18, 2012, his bereavement precluded him from conducting a proper smog inspection, he should have aborted the inspection and declined to issue a certificate of compliance.

15. Since the October 18, 2012 undercover operation, respondent Sisak maintains an assortment of parts on a wall at the station to visually remind him of what he should look for during smog check inspections. Respondent Sisak has employed two additional, experienced technicians to work with him at Vista Test Only Center. Respondent Sisak promised that in the future he will try his best to do everything not to be cited again. He offered correspondence and character references from his clients who expressed appreciation for his kindness and who extolled his professionalism and knowledge about automotive services.

16. The Bureau incurred investigative costs in the amount of \$2,773.45 and prosecution costs in the amount of \$7,157.50. These costs are reasonable pursuant to Business and Professions Code section 125.3

17. Neither party presented evidence regarding respondents' finances or ability to pay the Bureau's cost of investigation and prosecution.

## LEGAL CONCLUSIONS

1. Health and Safety Code section 44002 authorizes the Department to enforce the Motor Vehicle Inspection Program.

2. Health and Safety Code section 44012 provides, in pertinent part, the following:

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

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

[¶] . . . [¶]

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

3. Health and Safety Code section 44015 provides, in pertinent part, the following:

(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 non-compliance.

4. Health and Safety Code section 44032 provides that “[n]o 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.”

5. Health and Safety Code section 44059 provides that “[t]he willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by . . . [the Motor Vehicle Inspection Program or Automotive Repair Act] constitutes perjury and is punishable as provided in the Penal Code.”

6. Health and Safety Code section 44072.2, subdivisions (a), (c), and (d), authorizes the Director to suspend, revoke, or take other disciplinary action against a license if the license holder violates provisions of the Motor Vehicle Inspection Program establishing inspections standards and test procedures—sections 44012, 44015 and 44059 in this instance—and regulations relating to the licensed activities, including California Code of Regulations, title 16, sections 3340.24, subdivision (c) (prohibiting false or fraudulent issuance of certificate of compliance), 3340.30, subdivision (a) (mandating inspections and tests in accordance with the Motor Vehicle Inspection Program), 3340.41, subdivision (c) (prohibiting the entry of false data or information into the emissions inspection system about a vehicle being tested or for any vehicle other than the one being not tested), and 3340.42 (establishing applicable emissions test methods and standards).

7. Business and Professions Code section 9884.7, subdivision (a), authorizes, among other things, suspending, revoking, or placing on probation 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 that constitutes fraud.

[¶] . . . [¶]

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

8. Business and Professions Code section 9884.9, subdivision (a), requires an automotive repair dealer to give the customer a written estimated price for labor and parts necessary for a specific job. That section states:

No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied.

9. With respect to the First Cause for Discipline (Untrue or Misleading Statements) alleged in the Accusation, cause exists to discipline Automotive Repair Dealer Registration Number ARD 251558 pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), by reason of Factual Finding 8, 9, 10, 11, and 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, knowingly made untrue and misleading statements.

10. With respect to the Second Cause for Discipline (Fraud) alleged in the Accusation, cause exists to discipline Automotive Repair Dealer Registration Number ARD 251558 and Smog Check Test Only Station License number TC251558 pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), by reason of Factual Findings 8, 9, 10, 11, 12, and 13, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, engaged in fraud.

11. With respect to the Third Cause for Discipline (Failure to Comply with the Automotive Repair Act) alleged in the Accusation, cause exists to discipline Automotive Repair Dealer Registration Number ARD 251558 pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), by reason of Factual Findings 8, 9, and 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, was non-compliant with the requirements of the Automotive Repair Act.

12. With respect to the Fourth Cause for Discipline (Violations of the Motor Vehicle Inspection Program) alleged in the Accusation, cause exists to discipline Smog Check Test Only Station License number TC 251558 pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), by reason of Factual Findings 8, 9, 10, 11, and 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, was non-compliant with the requirements of the Motor Vehicle Inspection Program set forth in Legal Conclusions 1 through 6, inclusive.

13. With respect to the Fifth Cause for Discipline (Failure to Comply with Regulations) alleged in the Accusation, cause exists to discipline Smog Check, Test Only, Station License number TC 251558 pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), by reason of Factual Finding 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, was non-compliant with the requirements of the Motor Vehicle Inspection Program set forth in Legal Conclusions 1 through 6, inclusive.

14. With respect to the Sixth Cause for Discipline (Violations of the Motor Vehicle Inspection Program) alleged in the Accusation, cause exists to discipline Smog Check Inspector License No. EO 154395 and Smog Check Repair Technician License No.

EI 154395 (formerly Advanced Emission Specialist Technician License No. EA 154395) pursuant to Health and Safety Code 44072.2, by reason of Factual Findings 8, 9, and 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, was non-compliant with the requirements of the Motor Vehicle Inspection Program set forth in Legal Conclusions 1 through 6, inclusive.

15. With respect to the Seventh Cause for Discipline (Failure to Comply with Regulations) alleged in the Accusation, cause exists to discipline Smog Check Inspector License No. EO 154395 and Smog Check Repair Technician License No. EI 154395 (formerly Advanced Emission Specialist Technician License No. EA 154395) pursuant to Health and Safety Code 44072.2, by reason of Factual Findings 8, 9, 10, 11, and 12, in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, was non-compliant with the requirements of the Motor Vehicle Inspection Program set forth in Legal Conclusions 1 through 6, inclusive.

16. With respect to the Eighth Cause for Discipline (Dishonesty, Fraud or Deceit) alleged in the Accusation, cause exists to discipline Smog Check Inspector License No. EO 154395 and Smog Check Repair Technician License No. EI 154395 (formerly Advanced Emission Specialist Technician License No. EA 154395) pursuant to Health and Safety Code 44072.2, by reason of Factual Findings 8, 9, 11, 12, and 13 in that in connection with the 2000 Ford Explorer undercover operation respondent Sisak, acting on behalf of Vista Test Only, Inc., doing business as Vista Test Only Center, engaged in fraud.

17. Pursuant to California Code of Regulations, title 16, section 3395.4, the Bureau has promulgated *Guidelines for Disciplinary Penalties and Terms of Probation* (May 1997), which requires consideration of specified factors in aggravation and mitigation when determining appropriate discipline. Respondent's misconduct in this case is egregious in that it involves dishonesty and fraud. Respondents' misconduct is not a one-time occurrence; rather, respondent's misconduct is part of a repeated and willful course of disregard for the Department's Motor Vehicle Inspection Program and the Automotive Repair Act. Notwithstanding several prior citations involving identical violations, and multiple conferences and notices of future undercover operations to ensure compliance, respondents' behavior continued unabated. The totality of the evidence mandates revocation of respondents' registration and licenses to protect the public health and welfare.

18. Cause exists pursuant to Business and Professional Code section 125.3 to order respondent to pay the Bureau's reasonable costs of investigation and prosecution set forth in Factual Finding 16.

19. Under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal. App. 4th 32, 45, the Bureau must exercise its discretion to reduce or eliminate cost awards so as to prevent cost award statutes from deterring licensees with potentially meritorious claims or defenses from exercising their right to a hearing. "Thus the [Bureau] may not assess the

full costs of investigation and prosecution when to do so will unfairly penalize a [licensee] who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed.” (*Id.*) The Bureau, in imposing costs in such situations, must consider the licensee’s subjective good faith belief in the merits of his or her position and the Bureau must consider whether or not the licensee has raised a colorable defense. The Bureau must also consider the licensee’s ability to make payment.

20. Considering all of the *Zuckerman* factors, including the absence of evidence regarding respondents’ finances, respondents shall pay the Bureau its reasonable costs of investigation and prosecution totaling \$9,930.95, but only in the event that Automotive Repair Dealer Registration Number ARD 251558, Smog Check, Test Only, Station License Number TC 251558, Smog Check Inspector License No. EO 154395, or Smog Check Repair Technician License No. EI 154395 is reinstated in the future.

#### ORDER

1. Automotive Repair Dealer Registration Number ARD 251558 issued to Vista Test Only, Inc., doing business as Vista Test Only Center is revoked.

2. Smog Check, Test Only, Station License Number TC 251558 issued to Vista Test Only, Inc., doing business as Vista Test Only Center is revoked.

3. Smog Check Inspector License No. EO 154395 and Smog Check Repair Technician License No. EI 154395 (formerly Advanced Emission Specialist Technician License No. EA 154395) issued to Sisak Keshishyan is revoked.

4. Respondent Sisak Keshishyan and Vista Test Only Inc., doing business as Vista Test Only Center, shall jointly and severally pay the Bureau its reasonable costs of investigation and prosecution totaling \$9,930.95 in the event that the revoked registration or licenses set forth above in Orders 1, 2, and 3 are reinstated in the future.

May 29, 2014



JENNIFER M. RUSSELL  
Administrative Law Judge  
Office of Administrative Hearings

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

10 In the Matter of the Accusation Against:

Case No. 79/13-79

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

**FIRST AMENDED ACCUSATION**

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

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

21 Respondents.

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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28 ///





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.



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:  
28

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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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  
28

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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