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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. 79/11-66

13 **BERKELEY SMOG TEST ONLY CENTER**  
1010 Carleton Street # A  
14 Berkeley, CA 94710  
**GURJIT SINGH MINHAS, OWNER**  
Automotive Repair Dealer Registration  
15 No. ARD 254780  
Smog Check Test Only Station License  
16 No. TC 254780

**A C C U S A T I O N**  
**S M O G C H E C K**

17 and

18 **PAO-CHOY SAELEE**  
2462 Homestead Circle  
19 Richmond, CA 94806  
Advanced Emission Specialist Technician License  
20 No. EA 152621

21 Respondents.

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 May 8, 2008, the Bureau issued Automotive Repair Dealer Registration  
28 Number ARD 254780 ("registration") to Gurjit Singh Minhas ("Respondent Berkeley") doing

1 business as Berkeley Smog Test Only Center. The registration was in full force and effect at all  
2 times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

3 **Smog Check Test Only Station License**

4 3. On or about May 16, 2008, the Bureau issued Smog Check Test Only Station License  
5 Number TC 254780 ("station license") to Respondent Berkeley. The station license was in full  
6 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
7 2011, unless renewed.

8 **Advanced Emission Specialist Technician License**

9 4. On a date uncertain in 2006, the Bureau issued Advanced Emission Specialist  
10 Technician License Number EA 152621 ("technician license") to Pao-Choy Saelee ("Respondent  
11 Saelee"). The technician license was in full force and effect at all times relevant to the charges  
12 brought herein and will expire on January 31, 2012, unless renewed.

13 **STATUTORY PROVISIONS**

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

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

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

25 (4) Any other conduct which constitutes fraud.

26 (b) Except as provided for in subdivision (c), if an automotive repair  
27 dealer operates more than one place of business in this state, the director pursuant to  
28 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 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.

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:

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

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

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

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

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

25                     When a license has been revoked or suspended following a hearing under  
26 this article, any additional license issued under this chapter in the name of the  
27 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 UNDERCOVER OPERATION – OCTOBER 29, 2009

7 13. On or about October 29, 2009, a Bureau undercover operator (“operator”) drove a  
8 Bureau-documented 1990 Mercury Sable to Respondent Berkeley’s facility and requested a smog  
9 inspection. The vehicle could not pass the functional portion of a smog inspection because the  
10 vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications. The operator  
11 signed a work order and was provided with an estimate prior to the smog inspection. Respondent  
12 Saelee performed the smog inspection and issued electronic Certificate of Compliance No.  
13 NO199733 for that vehicle. Further, Respondent Saelee failed to perform a fuel cap integrity test  
14 and LPFET test on that vehicle. The operator paid \$59.95 for the smog inspection and received a  
15 copy of Invoice No. 0012690.

16 FIRST CAUSE FOR DISCIPLINE

17 (Misleading Statements)

18 14. Respondent Berkeley has subjected his registration to discipline under Code section  
19 9884.7, subdivision (a)(1), in that on or about October 29, 2009, he made statements which he  
20 knew or which by exercise of reasonable care he should have known were untrue or misleading  
21 when he issued electronic Certificate of Compliance No. NO199733 for the 1990 Mercury Sable,  
22 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,  
23 the vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications.

24 SECOND CAUSE FOR DISCIPLINE

25 (Fraud)

26 15. Respondent Berkeley has subjected his registration to discipline under Code section  
27 9884.7, subdivision (a)(4), in that on or about October 29, 2009, he committed acts which  
28 constitute fraud by issuing electronic Certificate of Compliance No. NO199733 for the 1990

1 Mercury Sable, without performing a bona fide inspection of the emission control devices and  
2 systems on that vehicle, thereby depriving the People of the State of California of the protection  
3 afforded by the Motor Vehicle Inspection Program.

4 **THIRD CAUSE FOR DISCIPLINE**

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

6 16. Respondent Berkeley has subjected his station license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (a), in that on or about October 29, 2009, regarding the  
8 1990 Mercury Sable, he violated sections of that Code, as follows:

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

12 b. **Section 44012, subdivision (f):** Respondent Berkeley failed to perform emission  
13 control tests on that vehicle in accordance with procedures prescribed by the department.

14 c. **Section 44015, subdivision (b):** Respondent Berkeley issued electronic Certificate  
15 of Compliance No. NO199733 without properly testing and inspecting that vehicle to determine if  
16 it was in compliance with section 44012 of that Code.

17 d. **Section 44059:** Respondent Berkeley willfully made false entries for the electronic  
18 Certificate of Compliance No. NO199733, certifying that the vehicle had been inspected as  
19 required when, in fact, it had not.

20 **FOURTH CAUSE FOR DISCIPLINE**

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

22 17. Respondent Berkeley has subjected his station license to discipline under Health and  
23 Safety Code section 44072.2, subdivision (c), in that on or about October 29, 2009, regarding the  
24 1990 Mercury Sable, he violated sections of the California Code of Regulations, title 16, as  
25 follows:

26 a. **Section 3340.24, subdivision (c):** Respondent Berkeley falsely or fraudulently  
27 issued electronic Certificate of Compliance No. NO199733 without performing a bona fide  
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1 inspection of the emission control devices and systems on that vehicle as required by Health and  
2 Safety Code section 44012.

3 b. Section 3340.35, subdivision (c): Respondent Berkeley issued electronic Certificate  
4 of Compliance No. NO199733 even though that vehicle had not been inspected in accordance  
5 with section 3340.42 of that Code.

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

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 18. Respondent Berkeley subjected his station license to discipline under Health and  
11 Safety Code section 44072.2, subdivision (d), in that on or about October 29, 2009, regarding the  
12 1990 Mercury Sable, he committed acts involving dishonesty, fraud or deceit whereby another  
13 was injured by issuing electronic Certificate of Compliance No. NO199733 for that vehicle  
14 without performing a bona fide inspection of the emission control devices and system on the  
15 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
16 Motor Vehicle Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 19. Respondent Saelee has subjected his technician license to discipline under Health and  
20 Safety Code section 44072.2, subdivision (a), in that on or about October 29, 2009, regarding the  
21 1990 Mercury Sable, he violated sections of that Code, as follows:

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

25 b. Section 44012, subdivision (f): Respondent Saelee failed to perform emission  
26 control tests on that vehicle in accordance with procedures prescribed by the department.

27 c. Section 44032: Respondent Saelee failed to perform tests of the emission control  
28 devices and systems on that vehicle in accordance with section 44012 of that Code.

1 d. **Section 44059:** Respondent Saelee willfully made false entries for electronic  
2 Certificate of Compliance No. NO199733, certifying that the vehicle had been inspected as  
3 required when, in fact, it had not.

4 **SEVENTH CAUSE FOR DISCIPLINE**

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

6 20. Respondent Saelee has subjected his technician license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (c), in that on or about October 29, 2009, regarding the  
8 1990 Mercury Sable, he violated sections of the California Code of Regulations, title 16, as  
9 follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Saelee falsely or fraudulently issued  
11 electronic Certificate of Compliance No. NO199733 without performing a bona fide inspection of  
12 the emission control devices and systems on that vehicle as required by Health and Safety Code  
13 section 44012.

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

16 c. **Section 3340.41, subdivision (c):** Respondent Saelee entered false information into  
17 the Emission Inspection System ("EIS") for electronic Certificate of Compliance No. NO199733  
18 by entering "Pass" for both the ignition timing test and the fuel cap integrity test.

19 d. **Section 3340.42:** Respondent Saelee failed to conduct the required smog tests and  
20 inspections on that vehicle in accordance with the Bureau's specifications.

21 **EIGHTH CAUSE FOR DISCIPLINE**

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

23 21. Respondent Saelee has subjected his technician license to discipline under Health and  
24 Safety Code section 44072.2, subdivision (d), in that on or about October 29, 2009, regarding the  
25 1990 Mercury Sable, he committed acts involving dishonesty, fraud or deceit whereby another  
26 was injured by issuing electronic Certificate of Compliance No. NO199733 without performing a  
27 bona fide inspection of the emission control devices and systems on that vehicle, thereby  
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1 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
2 Inspection Program.

3 **UNDERCOVER OPERATION – MARCH 10, 2010**

4 22. On or about March 10, 2010, a Bureau undercover operator (“operator”) drove a  
5 Bureau-documented 1990 Honda Accord to Respondent Berkeley’s facility and requested a smog  
6 inspection. The vehicle could not pass the functional portion of a smog inspection because the  
7 vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications. The operator  
8 signed a work order and was provided with an estimate prior to the smog inspection. Respondent  
9 Saelee performed the smog inspection and issued electronic Certificate of Compliance No.  
10 NQ941079 for that vehicle; however, Respondent Saelee failed to perform the fuel cap integrity  
11 test and the LPFET test on that vehicle. The operator paid \$69.95 for the smog inspection and  
12 received a copy of Invoice No. 0014556.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Misleading Statements)**

15 23. Respondent Berkeley has subjected his registration to discipline under Code section  
16 9884.7, subdivision (a)(1), in that on or about March 10, 2010, he made statements which he  
17 knew or which by exercise of reasonable care he should have known were untrue or misleading  
18 when he issued electronic Certificate of Compliance No. NQ941079 for the 1990 Honda Accord,  
19 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,  
20 the vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 24. Respondent Berkeley has subjected his registration to discipline under Code section  
24 9884.7, subdivision (a)(4), in that on or about March 10, 2010, he committed acts which  
25 constitute fraud by issuing electronic Certificate of Compliance No. NQ941079 for the 1990  
26 Honda Accord, without performing a bona fide inspection of the emission control devices and  
27 systems on that vehicle, thereby depriving the People of the State of California of the protection  
28 afforded by the Motor Vehicle Inspection Program.

1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Violation of the Motor Vehicle Inspection Program)

3 25. Respondent Berkeley has subjected his station license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (a), in that on or about March 10, 2010, regarding the  
5 1990 Honda Accord, he violated sections of that Code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent Berkeley 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 Berkeley failed to perform emission  
10 control tests on that vehicle in accordance with procedures prescribed by the department.

11 c. **Section 44015, subdivision (b):** Respondent Berkeley issued electronic Certificate  
12 of Compliance No. NQ941079 without properly testing and inspecting that vehicle to determine if  
13 it was in compliance with section 44012 of that Code.

14 d. **Section 44059:** Respondent Berkeley willfully made false entries for the electronic  
15 Certificate of Compliance No. NQ941079, certifying that the vehicle had been inspected as  
16 required when, in fact, it had not.

17 TWELFTH CAUSE FOR DISCIPLINE

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

19 26. Respondent Berkeley has subjected his station license to discipline under Health and  
20 Safety Code section 44072.2, subdivision (c), in that on or about March 10, 2010, regarding the  
21 1990 Honda Accord, he violated sections of the California Code of Regulations, title 16, as  
22 follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Berkeley falsely or fraudulently  
24 issued electronic Certificate of Compliance No. NQ941079 without performing a bona fide  
25 inspection of the emission control devices and systems on that vehicle as required by Health and  
26 Safety Code section 44012.

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1 d. Section 44059: Respondent Saelee willfully made false entries for electronic  
2 Certificate of Compliance No. NQ941079, certifying that the vehicle had been inspected as  
3 required when, in fact, it had not.

4 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent Saelee has subjected his technician license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (c), in that on or about March 10, 2010, regarding the  
8 1990 Honda Accord, he violated sections of the California Code of Regulations, title 16, as  
9 follows:

10 a. Section 3340.24, subdivision (c): Respondent Saelee falsely or fraudulently issued  
11 electronic Certificate of Compliance No. NQ941079 without performing a bona fide inspection of  
12 the emission control devices and systems on that vehicle as required by Health and Safety Code  
13 section 44012.

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

16 c. Section 3340.41, subdivision (c): Respondent Saelee entered false information into  
17 the EIS for electronic Certificate of Compliance No. NQ941079 by entering "Pass" for the  
18 ignition timing tests.

19 d. Section 3340.42: Respondent Saelee failed to conduct the required smog tests and  
20 inspections on that vehicle in accordance with the Bureau's specifications.

21 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

23 30. Respondent Saelee has subjected his technician license to discipline under Health and  
24 Safety Code section 44072.2, subdivision (d), in that on or about March 10, 2010, regarding the  
25 1990 Honda Accord, he committed acts involving dishonesty, fraud or deceit whereby another  
26 was injured by issuing electronic Certificate of Compliance No. NQ941079 without performing a  
27 bona fide inspection of the emission control devices and systems on that vehicle, thereby  
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1 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
2 Inspection Program.

3 **OTHER MATTERS**

4 31. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
5 or permanently or refuse to validate, the registrations for all places of business operated in this  
6 state by to Gurjit Singh Minhas doing business as Berkeley Smog Test Only Center, upon a  
7 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and  
8 regulations pertaining to an automotive repair dealer.

9 32. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
10 License Number TC 254780, issued to Gurjit Singh Minhas doing business as Berkeley Smog  
11 Test Only Center, is revoked or suspended, any additional license issued under this chapter in the  
12 name of said licensee may be likewise revoked or suspended by the director.

13 33. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist  
14 Technician License Number EA 152621, issued to Pao-Choy Saelee, is revoked or suspended,  
15 any additional license issued under this chapter in the name of said licensee may be likewise  
16 revoked or suspended by the director.

17 **PRAYER**

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

20 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
21 Registration Number ARD 254780, issued to Gurjit Singh Minhas doing business as Berkeley  
22 Smog Test Only Center;

23 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
24 registration issued in the name Gurjit Singh Minhas doing business as Berkeley Smog Test Only  
25 Center;

26 3. Revoking or suspending Smog Check Test Only Station License Number TC 254780,  
27 issued to Gurjit Singh Minhas doing business as Berkeley Smog Test Only Center;

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- 1           4.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
2 and Safety Code in the name of Gurjit Singh Minhas doing business as Berkeley Smog Test Only  
3 Center;
- 4           5.    Revoking or suspending Advanced Emission Specialist Technician License Number  
5 EA 152621, issued to Pao-Choy Saelee;
- 6           6.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
7 and Safety Code in the name of Pao-Choy Saelee;
- 8           7.    Ordering Gurjit Singh Minhas and Pao-Choy Saelee to pay the Bureau of Automotive  
9 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to  
10 Business and Professions Code section 125.3; and,
- 11          8.    Taking such other and further action as deemed necessary and proper.

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14 DATED: \_\_\_\_\_

2/1/11



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

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