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

11 In the Matter of the Accusation Against:

Case No. 79/12-50

12 **EATON AUTO DIAGNOSTICS, INC.,**  
13 **dba HIGH ST SMOG CHECK**  
14 **NICHOLAS YAKOUBOVSKY, PRESIDENT**  
15 **ELENA YAKOUBOVSKY, TREASURER**  
16 **ALEXANDER MANISCALCO-KRIUKOW,**  
17 **SECRETARY**  
18 **4321 San Leandro Street**  
19 **Oakland, CA 94601**  
**Mailing Address:**  
20 **71 Wild Oak Lane**  
21 **Danville, CA 94506**  
22 **Automotive Repair Dealer Reg. No. ARD 261712**  
23 **Smog Check, Test Only, Station License No. TC**  
24 **261712**

**A C C U S A T I O N**  
**(Smog Check)**

and

21 **SALOKHIDDIN FAKHRIEV**  
22 **375 Colusa Avenue, #2**  
23 **Kensington, CA 94707**  
24 **Advanced Emission Specialist Technician**  
25 **License No. EA 630209**

Respondents.

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1 Complainant alleges:

2 **PARTIES**

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

5 **Eaton Auto Diagnostics, Inc. dba High St. Smog Check**

6 2. On or about April 23, 2010, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 261712 (hereinafter "registration") to  
8 Eaton Auto Diagnostics, Inc. ("Respondent Eaton"), doing business as High St Smog Check, with  
9 Nicholas Yakoubovsky as president, Elena Yakoubovsky as treasurer, and Alexander  
10 Maniscalco-Kriukow as secretary. Respondent's registration was in full force and effect at all  
11 times relevant to the charges brought herein and will expire on March 31, 2012, unless renewed.

12 3. On or about April 26, 2010, the Director issued Smog Check, Test Only, Station  
13 License Number TC 261712 (hereinafter "smog check station license") to Respondent Eaton.  
14 Respondent's smog check station license was in full force and effect at all times relevant to the  
15 charges brought herein and will expire on March 31, 2012, unless renewed.

16 **Salokhiddin Fakhriev**

17 4. On or about May 19, 2008, the Director issued Advanced Emissions Specialist  
18 Technician License Number EA 630209 (hereinafter "technician license") to Salokhiddin  
19 Fakhriev ("Respondent Fakhriev"). Respondent's technician license was in full force and effect at  
20 all times relevant to the charges brought herein and will expire on November 30, 2013, unless  
21 renewed.

22 **JURISDICTION**

23 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
24 the Director may revoke an automotive repair dealer registration.

25 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
26 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
27 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
28 invalidating (revoking or suspending) a registration.



1 11. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

8 . . . .

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

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

13 12. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
14 suspended following a hearing under this article, any additional license issued under this chapter  
15 in the name of the licensee may be likewise revoked or suspended by the director.

#### 16 COST RECOVERY

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

#### 21 VID DATA REVIEW

22 14. On November 30, 2010, a representative of the Bureau initiated an investigation  
23 against Respondents Eaton and Fakhriev based on a review of information from the Bureau's  
24 Vehicle Information Database ("VID"), which indicated that Respondents may be engaging in  
25 fraudulent smog check activities. On November 30, 2010, and June 30, 2011, the representative  
26 conducted detailed reviews of VID data for all smog inspections performed at Respondent Eaton's  
27 facility for the period of May 2010 through June 30, 2011. The representative found that vehicles  
28 1 through 12 identified below, all of which were tested by Respondent Fakhriev, recorded certain

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1 diagnostic trouble codes (hereinafter "code") during the OBD II tests<sup>1</sup>. The representative  
 2 obtained information indicating that the codes were not applicable to the vehicles. The Bureau  
 3 concluded that Respondent Fakhriev performed the smog inspections on the vehicles using a  
 4 different vehicle during the OBD II tests, a method known as "clean plugging",<sup>2</sup> resulting in the  
 5 issuance of fraudulent certificates of compliance for the vehicles.

Date & Time of Inspection	Vehicle Certified	Certificate No.
1. 06/03/2010 17:32 – 17:40	2002 Chevrolet Venture FWD; License No. 5VEZ178	NU346373C
2. 06/12/2010 10:50 – 10:56	1999 Suzuki Esteem; License No. 6GMT520	NU398749C
3. 07/15/2010 15:46 – 15:51	2000 Daewoo Lanos; License No. 5DDC564	NU898206C
4. 07/15/2010 18:32- 18:39	1998 Nissan Maxima; License No. 4ACH930	NU898214C
5. 07/15/2010 18:45 – 18:51	1997 Buick LaSabre; License No. ABM0470	NU898215C
6. 07/19/2010 19:09 – 19:15	1996 Ford Thunderbird; License No. 5WVP857	NU930238C
7. 08/23/2010 12:25 – 12:30	1996 Mitsubishi Eclipse; no plates	NW380986C
8. 08/28/2010 10:59 – 11:06	1997 GMC Suburban; License No. 5JJT644	NW448598C
9. 08/30/2010 17:05 – 17:13	2001 Dodge Stratus 4-DR; License No. 4SVX210	NW489982C
10. 10/07/2010 17:54 – 18:20	1997 Ford F150 regular cab short; License No. 5K50471	NY033482C
11. 12/30/2010 14:39 – 14:46	2003 Ford Windstar wagon; License No. 5ANE584	WR203843C

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

25 <sup>2</sup> Clean-plugging is the use of the OBD II readiness monitor status and stored fault code  
 26 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to  
 27 another vehicle that is not in compliance due to a failure to complete the minimum number of self  
 tests, known as monitors, or due to the presence of a stored fault code that indicates an emission  
 control system or component failure.

Date & Time of Inspection	Vehicle Certified	Certificate No.
12. 04/05/2011 17:13 – 17:18	2000 Hyundai Accent/Brio; License No. 6ESH595	OC357043C

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

15. Respondent Eaton's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Eaton's technician, Respondent Fakhriev, certified under penalty of perjury on the vehicle inspection reports for vehicles 1 through 10, identified in paragraph 14 above<sup>3</sup>, that he performed the smog inspections on the vehicles in accordance with all Bureau requirements and that the vehicles had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections on the vehicles using clean-plugging methods in that he substituted or used a different vehicle(s) during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

b. Respondent Eaton's technician, Respondent Fakhriev, certified that vehicles 11 and 12, identified in paragraph 14 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections on the vehicles using clean-plugging methods in that he substituted or used a different vehicle(s) during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

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<sup>3</sup> On June 3, 2011, the representative made a field visit at Respondent Eaton's facility and obtained copies of invoices and vehicle inspection reports for vehicles 1 through 10.







1 as High St Smog Check, is revoked or suspended, any additional license issued under this chapter  
2 in the name of said licensee may be likewise revoked or suspended by the director.

3 25. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
4 Technician License Number EA 630209, issued to Salokhiddin Fakhriev, is revoked or  
5 suspended, any additional license issued under this chapter in the name of said licensee may be  
6 likewise revoked or suspended by the director.

7 **PRAYER**

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

10 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
11 261712, issued to Eaton Auto Diagnostics, Inc., doing business as High St Smog Check;

12 2. Revoking or suspending any other automotive repair dealer registration issued to  
13 Eaton Auto Diagnostics, Inc;

14 3. Revoking or suspending Smog Check, Test Only, Station License Number TC  
15 261712, issued to Eaton Auto Diagnostics, Inc., doing business as High St Smog Check;

16 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
17 and Safety Code in the name of Eaton Auto Diagnostics, Inc;

18 5. Revoking or suspending Advanced Emissions Specialist Technician License Number  
19 EA 630209, issued to Salokhiddin Fakhriev;

20 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
21 and Safety Code in the name of Salokhiddin Fakhriev;

22 7. Ordering Respondents Eaton Auto Diagnostics, Inc., doing business as High St Smog  
23 Check, and Salokhiddin Fakhriev to pay the Director of Consumer Affairs the reasonable costs of  
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
25 125.3;

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

DATED: 10/21/11

*Sherry Mehl* by *Dan Balatti*  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*  
*Dan Balatti*  
*Assist. Chief*

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