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

12 In the Matter of the Accusation Against:

13 **CALIFORNIA SMOG ONLY**  
14 **NABILA IQBALL, OWNER**  
443 S. Wilson Way  
15 Stockton, California 95205  
Automobile Repair Dealer Reg. No. ARD 264464  
16 Smog Check Station License No. TC 264464

17 and

18 **CALIFORNIA SMOG**  
19 **PARVEZ AHMED, OWNER**  
443 S. Wilson Way  
20 Stockton, California 95205  
Automobile Repair Dealer Reg. No. ARD 262298  
21 Smog Check Station License No. TC 262298

22 and

23 **HEDAYATULLAH BAYANZAY**  
24 12773 North Lower Sacramento Road  
Lodi, California 95242  
25 Advanced Emission Specialist Technician  
26 License No. EA 631151

27 Respondents.

BAR Case No. 79/12-40

OAH Case No. 2011080623

**A C C U S A T I O N**

(Smog Check)

1 Complainant alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration No. ARD 264464**

6 2. On or about March 28, 2011, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 264464 ("Registration") to California  
8 Smog Only ("Respondent California Smog Only"), with Nabila Iqball ("Iqball") as owner. The  
9 California Smog Only Registration will expire on March 31, 2012, unless renewed.

10 **Smog Check Station License No. TC 264464**

11 3. On or about March 29, 2011, the Director issued Smog Check Station License  
12 Number TC 264464 ("Smog Check Station License") to Respondent California Smog Only. The  
13 California Smog Only Station License will expire on March 31, 2012, unless renewed.

14 **Automotive Repair Dealer Registration No. ARD 262298**

15 4. On or about June 21, 2010, the Director issued Automotive Repair Dealer  
16 Registration Number ARD 262298 ("Registration") to California Smog ("Respondent California  
17 Smog"), with Parvez Ahmed ("Ahmed") as owner. The California Smog Registration expired on  
18 June 30, 2011, and has not been renewed.

19 **Smog Check Station License No. TC 262298**

20 5. On or about June 22, 2010, the Director issued Smog Check Station License  
21 Number TC 262298 ("Smog Check Station License") to Respondent California Smog. The  
22 California Smog Station License expired on June 30, 2011, unless renewed.

23 **Advanced Emission Specialist Technician License No. EA 631151**

24 6. On or about July 6, 2009, the Director issued Advanced Emission Specialist  
25 Technician License Number EA 631151 (hereinafter "Technician License") to Hedayatullah  
26 Bayanzay ("Respondent Bayanzay" or "Bayanzay"). Respondent Bayanzay's Technician License  
27 was in full force and effect at all times relevant to the charges brought herein and expired on July  
28 31, 2011, and has not been renewed.

1 JURISDICTION

2 7. Business and Professions Code<sup>1</sup> section 9884.7 provides that the Director may  
3 invalidate an automotive repair dealer registration.

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

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

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

15 **Interim Suspension Order**

16 11. On or about September 8, 2011, an Interim Suspension Order was issued against  
17 Respondents California Smog Only and Respondent Bayanzay. This Order temporarily  
18 suspended Respondent California Smog Only's Registration and Smog Check Station License  
19 and Respondent Bayanzay's Technician License. A copy of this Order is attached hereto, and  
20 fully incorporated herein by this reference, as Exhibit 1.

21 STATUTORY PROVISIONS

22 12. Code section 9884.7 states, in pertinent part:

23 (a) The director, where the automotive repair dealer cannot show there  
24 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
25 permanently, the registration of an automotive repair dealer for any of the  
26 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.

27  
28 <sup>1</sup> Unless otherwise specified, all subsequent statutory references are to the Business and Professions Code.

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

5           .....

6           (4) Any other conduct which constitutes fraud.

7           .....

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

13           13. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
14 "commission," "committee," "department," "division," "examining committee," "program," and  
15 "agency." "License" includes certificate, registration or other means to engage in a business or  
16 profession regulated by the Bus. & Prof. Code.

17           14. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
18 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
19 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
20 temporarily or permanently.

21           15. Health and Safety Code section 44002 provides, in pertinent part, that the Director  
22 has all the powers and authority granted under the Automotive Repair Act for enforcing the  
23 Motor Vehicle Inspection Program

24           16. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

.....

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

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

3 17. Health and Safety Code section 44072.6 provides, in pertinent part, that the  
4 expiration or suspension of a license by operation of law, or by order or decision of the Director  
5 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
6 the Director of jurisdiction to proceed with disciplinary action.

7 18. Health and Safety Code section 44072.10 states, in pertinent part:

8 . . . .

9 (c) The department shall revoke the license of any smog check technician  
10 or station licensee who fraudulently certifies vehicles or participates in the  
11 fraudulent inspection of vehicles. A fraudulent inspection includes, but is not  
12 limited to, all of the following:

13 . . . .

14 (4) Intentional or willful violation of this chapter or any regulation,  
15 standard, or procedure of the department implementing this chapter . . .

16 19. Health and Safety Code section 44072.8 states that when a license has been  
17 revoked or suspended following a hearing under this article, any additional license issued under  
18 this chapter in the name of the licensee may be likewise revoked or suspended by the director.

19 **COST RECOVERY**

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

24 **FACTUAL BACKGROUND**

25 21. In late 2010, BAR commenced its investigation of Respondents. BAR conducted  
26 an undercover operation on December 16, 2010 upon Respondent California Smog and  
27 Respondent Bayanzay. This operation revealed violations of the Automotive Repair Act (Code  
28 section 9880 et. seq.) and the Motor Vehicle Inspection Program (Health and Safety Code section  
44000 et. seq.) by Respondents. BAR subsequently conducted three (3) surveillance operations.  
One surveillance operation was conducted on January 27, 2011, upon Respondent California

1 Smog and Respondent Bayanzay. On or about March 29, 2011, the Respondent California Smog  
2 transferred the business to Respondent California Smog Only. The second surveillance operation  
3 was conducted on April 18, 2011, upon Respondent California Smog Only and Respondent  
4 Bayanzay. The third surveillance operation was conducted on May 10, 2011, upon Respondent  
5 California Smog Only and Respondent Bayanzay. The surveillance operations revealed an  
6 ongoing pattern of additional violations of the Automotive Repair Act and the Motor Vehicle  
7 Inspection Program by Respondents.

8 **December 16, 2010, Undercover Operation with 1995 Chevrolet Beretta.**

9 22. Between November 10, 2010, and November 23, 2010, BAR Program  
10 Representative Joseph T. Gibson prepared a 1995 Chevrolet Beretta owned by BAR so that it  
11 would fail an inspection under the Motor Vehicle Inspection Program because of a defective  
12 Exhaust Gas Recirculation (EGR) valve and the installation of a blockage plate. Replacement of  
13 the defective EGR valve and the removal of a blockage plate was the only repair needed for the  
14 vehicle to pass a smog inspection.

15 23. On December 16, 2010, BAR's undercover operator Michael N. Ponce (using the  
16 assumed name Michael Pena) took the car to California Smog and asked for a smog inspection to  
17 be performed on the vehicle. Respondent Bayanzay performed a smog inspection on the vehicle.  
18 In spite of the defective EGR valve and the installation of the blockage plate, which both  
19 independently rendered the vehicle unable to pass a smog inspection, Respondent Bayanzay and  
20 Respondent California Smog issued an electronic Certificate of Compliance indicating that the  
21 vehicle complied with the requirements of the Motor Vehicle Inspection Program without  
22 repairing the defective EGR valve or removing the blockage plate.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Untrue or Misleading Statements)

25 24. Respondent California Smog's Registration is subject to disciplinary action  
26 pursuant to Code section 9884.7, subdivision (a)(1), in that on or about December 16, 2010,  
27 Respondent California Smog made or authorized statements which he knew, or in the exercise of  
28 reasonable care, he should have known to be untrue or misleading, by issuing an electronic

1 Certificate of Compliance for the 1995 Chevrolet Beretta, certifying that the vehicle was in  
2 compliance with applicable laws and regulations. In fact, the vehicle could not have passed the  
3 smog inspection because the vehicle's EGR system had been rendered inoperable.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Fraud)

6 25. Respondent California Smog's Registration is subject to disciplinary action  
7 pursuant to Code section 9884.7, subdivision (a)(4), in that on or about December 16, 2010, he  
8 committed acts which constitute fraud by issuing an electronic Certificate of Compliance for the  
9 1995 Chevrolet Beretta without performing a bona fide inspection of the emission control devices  
10 and systems on the vehicle, thereby depriving the People of the State of California of the  
11 protection afforded by the Motor Vehicle Inspection Program.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Violations of the Motor Vehicle Inspection Program)

14 26. Respondent California Smog's Smog Check Station License is subject to  
15 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on  
16 or about December 16, 2010, regarding the 1995 Chevrolet Beretta, he failed to comply with the  
17 following sections of the Health and Safety Code:

18 a. Section 44012, subdivision (f): Respondent California Smog failed to  
19 perform emission control tests on the vehicle in accordance with procedures prescribed by the  
20 department.

21 b. Section 44015, subdivision (b): Respondent California Smog issued an  
22 electronic Certificate of Compliance for the vehicle without properly testing and inspecting the  
23 vehicle to determine if it was in compliance with Health and Safety Code section 44012.

24 c. Section 44059: Respondent California Smog willfully made false entries  
25 for an electronic Certificate of Compliance by entering "N" into the Emissions Inspection System  
26 (EIS) for functional test of the EGR system. By entering "N" Respondent California Smog  
27 indicated that a functional test of the EGR system was not applicable. This was a false entry. In  
28

1 fact, a functional test of the EGR system of the vehicle was required and should have been  
2 performed.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

5 27. Respondent California Smog's Smog Check Station License is subject to  
6 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on  
7 or about December 16, 2010, regarding the 1995 Chevrolet Beretta, he failed to comply with  
8 provisions of California Code of Regulations, title 16, as follows:

9 a. Section 3340.24, subdivision (c): Respondent California Smog falsely or  
10 fraudulently issued an electronic Certificate of Compliance for the vehicle, in that it could not  
11 pass the smog inspection because the vehicle's EGR had been rendered inoperable.

12 b. Section 3340.35, subdivision (c): Respondent California Smog issued an  
13 electronic Certificate of Compliance for the vehicle, even though the vehicle had not been  
14 inspected in accordance with section 3340.42.

15 c. Section 3340.42: Respondent California Smog failed to conduct the  
16 required smog tests on the vehicle in accordance with the Bureau's specifications.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 (Dishonesty, Fraud or Deceit)

19 28. Respondent California Smog's Smog Check Station License is subject to  
20 disciplinary action pursuant Health and Safety Code section 44072.2, subdivision (d), in that on  
21 or about December 16, 2010, Respondent committed dishonest, fraudulent or deceitful acts  
22 whereby another is injured by issuing an electronic Certificate of Compliance for the 1995  
23 Chevrolet Beretta without performing a bona fide inspection of the emission control devices and  
24 systems on the vehicle, thereby depriving the People of the State of California of the protection  
25 afforded by the Motor Vehicle Inspection Program.

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1 This was a false entry. In fact, a functional test of the EGR system of the vehicle was required  
2 and should have been performed..

3 c. Section 3340.42: Respondent Bayanzay failed to conduct the required  
4 smog tests on the vehicle in accordance with the Bureau's specifications.

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 (Dishonesty, Fraud or Deceit)

7 31. Respondent Bayanzay's Technician License is subject to disciplinary action  
8 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about  
9 December 16, 2010, regarding the 1995 Chevrolet Beretta, he committed dishonest, fraudulent or  
10 deceitful acts whereby another is injured by issuing an electronic Certificate of Compliance for  
11 the vehicle without performing a bona fide inspection of the emission control devices and systems  
12 on the vehicle, thereby depriving the People of the State of California of the protection afforded  
13 by the Motor Vehicle Inspection Program.

14 **Surveillance Operation of January 27, 2011.**

15 32. On January 27, 2011, BAR Program Representative Christopher Pryor conducted a  
16 video surveillance operation at the facility operated by Respondent California Smog, the then  
17 employer of Respondent Bayanzay. The video camera was aimed at the smog test service bay at  
18 Respondent California Smog and recorded Respondent Bayanzay throughout the day.

19 33. At the conclusion of the video recording, Mr. Pryor compared the Motor Vehicle  
20 Inspection Program's test summary for January 27, 2011, and compared it to the video recording.  
21 Mr. Pryor's comparison revealed that the Motor Vehicle Inspection Program test summary for  
22 January 27, 2011, indicated that between 1538 and 1607 hours, a 1990 Chevrolet Camaro,  
23 California license number 2VLS242, was tested and issued Certificate of Compliance number  
24 OA343904 by Respondent Bayanzay and Respondent California Smog. But the video recording  
25 shows something different. The video recording shows that at 1538 hours, a 1990 Chevrolet  
26 Camaro, California license number 2VLS242, being driven into the smog bay at Respondent  
27 California Smog. Two minutes later, at 1540, the Camaro was backed out of the smog bay. At  
28 no time was an exhaust emission sample probe inserted into the tailpipe of the Camaro, a

1 mandatory step in an inspection for the Motor Vehicle Inspection Program. At 1543 hours, a blue  
2 Ford pick-up truck was driven into the smog bay. At 1544 hours, Respondent Bayanzay inserted  
3 an exhaust emission sample probe into the tailpipe of the Ford pick-up truck. At 1547 hours,  
4 Respondent Bayanzay removed the sample probe from the Ford pick-up truck. At 1551 hours,  
5 the Camaro was driven back into the smog bay. At 1610 hours, the Camaro was backed out of  
6 the smog bay. At no time was an exhaust emission sample probe inserted into the tailpipe of the  
7 Camaro. Between 1538 and 1607 hours, the only vehicle into which an exhaust emission sample  
8 probe was inserted into the tailpipe was the Ford pick-up truck.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 34. Respondent California Smog's Registration is subject to disciplinary action  
12 pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent California Smog made or  
13 authorized statements which it knew or in the exercise of reasonable care should have known to  
14 be untrue or misleading. Respondent California Smog's smog check technician, Respondent  
15 Bayanzay, certified under penalty of perjury on the vehicle inspection report for the Chevrolet  
16 Camaro that he performed the smog inspection on the vehicle in accordance with all Bureau  
17 requirements and that the vehicle had passed inspection and was in compliance with applicable  
18 laws and regulations. In fact, Respondent Bayanzay conducted the inspection on the Chevrolet  
19 Camaro using clean-piping methods<sup>2</sup> in that he used a Ford pick-up truck during the test in order  
20 to issue an electronic Certificate of Compliance for the Chevrolet Camaro, and did not test or  
21 inspect the Chevrolet Camaro as required by Health and Safety Code section 44012.

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25 <sup>2</sup> Clean-piping is a process by which a smog technician and a smog check station can  
26 fraudulently issue a certificate of compliance to a vehicle that would otherwise not pass an  
27 inspection under the Motor Vehicle Inspection Program. To clean-pipe, the technician enters the  
28 vehicle information for the vehicle he wishes to certify, but samples the exhaust from a different  
(clean-running) vehicle. Using this method, the technician and station are able to issue a smog  
Certificate of Compliance to a vehicle that is polluting and unable to pass an inspection under the  
Motor Vehicle Inspection Program.

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**TENTH CAUSE FOR DISCIPLINE**

**(Fraud)**

35. Respondent California Smog's Registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent California Smog committed acts which constitute fraud by issuing an electronic Certificate of Compliance for the Chevrolet Camaro without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

**ELEVENTH CAUSE FOR DISCIPLINE**

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

36. Respondent California Smog's Smog Check Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent California Smog failed to comply with the following sections of the Health and Safety Code:

a. **Section 44012:** Respondent California Smog failed to ensure that the emission control tests were performed on the Chevrolet Camaro in accordance with procedure prescribed by the department.

b. **Section 44015:** Respondent California Smog issued an electronic Certificate of Compliance for the Chevrolet Camaro without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health and Safety Code section 44012.

**TWELFTH CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

37. Respondent California Smog's Smog Check Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent California Smog failed to comply with provisions of California Code of Regulations, title 16, as follows:

1 a. **Section 3340.24, subdivision (c)**: Respondent California Smog falsely or  
2 fraudulently issued an electronic Certificate of Compliance for the Chevrolet Camaro.

3 b. **Section 3340.35, subdivision (c)**: Respondent California Smog issued an  
4 electronic Certificate of Compliance for the Chevrolet Camaro even though the vehicle had not  
5 been inspected in accordance with section 3340.42.

6 c. **Section 3340.42**: Respondent California Smog failed to ensure that the  
7 required smog test was conducted on the Chevrolet Camaro in accordance with the Bureau's  
8 specifications.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

11 38. Respondent California Smog's Smog Check Station License is subject to  
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
13 Respondent California Smog committed dishonest, fraudulent or deceitful acts whereby another is  
14 injured by issuing an electronic Certificate of Compliance for the Chevrolet Camaro without  
15 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
16 thereby depriving the People of the State of California of the protection afforded by the Motor  
17 Vehicle Inspection Program.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

20 39. Respondent Bayanzay's Technician License is subject to disciplinary action  
21 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent  
22 Bayanzay failed to comply with section 44012 of the Health and Safety Code in a material  
23 respect, as follows: Respondent Bayanzay failed to perform the emission control test on the  
24 Chevrolet Camaro in accordance with procedure prescribed by the department.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 40. Respondent Bayanzay's Technician License is subject to disciplinary action  
5 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent  
6 Bayanzay failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Bayanzay falsely or  
8 fraudulently issued an electronic Certificate of Compliance for the Chevrolet Camaro.

9 b. **Section 3340.30, subdivision (a)**: Respondent Bayanzay failed to inspect  
10 and test the Chevrolet Camaro in accordance with Health and Safety Code sections 44012 and  
11 44035, and California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.42**: Respondent Bayanzay failed to conduct the required  
13 smog test on the Chevrolet Camaro in accordance with the Bureau's specifications.

14 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

16 41. Respondent Bayanzay's Technician License is subject to disciplinary action  
17 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent  
18 Bayanzay committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing  
19 an electronic Certificate of Compliance for the Chevrolet Camaro without performing a bona fide  
20 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
21 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
22 Program.

23 **Surveillance Operation of April 18, 2011.**

24 42. On April 18, 2011, BAR Program Representative Christopher Pryor conducted a  
25 video surveillance operation at the facility operated by Respondent California Smog Only, the  
26 current employer of Respondent Bayanzay. The video camera was aimed at the smog test service  
27 bay at Respondent California Smog Only and recorded Respondent Bayanzay throughout the day.  
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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 45. Respondent California Smog Only's Registration is subject to disciplinary action  
4 pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent California Smog Only  
5 committed acts which constitute fraud by issuing an electronic Certificate of Compliance for the  
6 Toyota Camry without performing a bona fide inspection of the emission control devices and  
7 systems on the vehicle, thereby depriving the People of the State of California of the protection  
8 afforded by the Motor Vehicle Inspection Program.

9 **NINETEENTH CAUSE FOR DISCIPLINE**

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

11 46. Respondent California Smog Only's Smog Check Station License is subject to  
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
13 Respondent California Smog Only failed to comply with the following sections of the Health and  
14 Safety Code:

15 a. **Section 44012:** Respondent California Smog Only failed to ensure that the  
16 emission control tests were performed on the Toyota Camry in accordance with procedure  
17 prescribed by the department.

18 b. **Section 44015:** Respondent California Smog Only issued an electronic  
19 Certificate of Compliance for the Toyota Camry without ensuring that the vehicle was properly  
20 tested and inspected to determine if it was in compliance with Health and Safety Code section  
21 44012.

22 **TWENTIETH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant**  
24 **to the Motor Vehicle Inspection Program)**

25 47. Respondent California Smog Only's Smog Check Station License is subject to  
26 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
27 Respondent California Smog Only failed to comply with provisions of California Code of  
28 Regulations, title 16, as follows:

1 a. **Section 3340.24, subdivision (c)**: Respondent California Smog Only  
2 falsely or fraudulently issued an electronic Certificate of Compliance for the Toyota Camry.

3 b. **Section 3340.35, subdivision (c)**: Respondent California Smog Only  
4 issued an electronic Certificate of Compliance for the Toyota Camry even though the vehicle had  
5 not been inspected in accordance with section 3340.42.

6 c. **Section 3340.42**: Respondent California Smog Only failed to ensure that  
7 the required smog test was conducted on the Toyota Camry in accordance with the Bureau's  
8 specifications.

9 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

11 48. Respondent California Smog Only's Smog Check Station License is subject to  
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
13 Respondent California Smog Only committed dishonest, fraudulent or deceitful acts whereby  
14 another is injured by issuing an electronic Certificate of Compliance for the Toyota Camry  
15 without performing a bona fide inspection of the emission control devices and systems on the  
16 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
17 Motor Vehicle Inspection Program.

18 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

20 49. Respondent Bayanzay's Technician License is subject to disciplinary action  
21 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent  
22 Bayanzay failed to comply with section 44012 of the Health and Safety Code in a material  
23 respect, as follows: Respondent Bayanzay failed to perform the emission control test on the  
24 Toyota Camry in accordance with procedure prescribed by the department.

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1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 50. Respondent Bayanzay's Technician License is subject to disciplinary action  
5 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent  
6 Bayanzay failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Bayanzay falsely or  
8 fraudulently issued an electronic Certificate of Compliance for the Toyota Camry.

9 b. **Section 3340.30, subdivision (a)**: Respondent Bayanzay failed to inspect  
10 and test the Toyota Camry in accordance with Health and Safety Code sections 44012 and 44035,  
11 and California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.42**: Respondent Bayanzay failed to conduct the required  
13 smog test on the Toyota Camry in accordance with the Bureau's specifications.

14 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

16 51. Respondent Bayanzay's Technician License is subject to disciplinary action  
17 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent  
18 Bayanzay committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing  
19 an electronic Certificate of Compliance for the Toyota Camry without performing a bona fide  
20 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
21 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
22 Program.

23 **Surveillance Operation of May 10, 2011.**

24 52. On May 10, 2011, BAR Program Representative Christopher Pryor conducted a  
25 video surveillance operation at Respondent California Smog Only, the current employer of  
26 Respondent Bayanzay. The video camera was aimed at the smog test service bay at facility  
27 operated by Respondent California Smog Only and recorded Respondent Bayanzay throughout  
28 the day.



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**TWENTY-SIXTH CAUSE FOR DISCIPLINE**

**(Fraud)**

55. Respondent California Smog Only's Registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent California Smog Only committed acts which constitute fraud by issuing an electronic Certificate of Compliance for the Saturn SL without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

**TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

56. Respondent California Smog Only's Smog Check Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent California Smog Only failed to comply with the following sections of the Health and Safety Code:

a. **Section 44012:** Respondent California Smog Only failed to ensure that the emission control tests were performed on the Saturn SL in accordance with procedure prescribed by the department.

b. **Section 44015:** Respondent California Smog Only issued an electronic Certificate of Compliance for the Saturn SL without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health and Safety Code section 44012.

**TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

57. Respondent California Smog Only's Smog Check Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent California Smog Only failed to comply with provisions of California Code of Regulations, title 16, as follows:

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1 a. **Section 3340.24, subdivision (c)**: Respondent California Smog Only  
2 falsely or fraudulently issued an electronic Certificate of Compliance for the Saturn SL.

3 b. **Section 3340.35, subdivision (c)**: Respondent California Smog Only  
4 issued an electronic Certificate of Compliance for the Saturn SL even though the vehicle had not  
5 been inspected in accordance with section 3340.42.

6 c. **Section 3340.42**: Respondent California Smog Only failed to ensure that  
7 the required smog test was conducted on the Saturn SL in accordance with the Bureau's  
8 specifications.

9 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

11 58. Respondent California Smog Only's Smog Check Station License is subject to  
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
13 Respondent California Smog Only committed dishonest, fraudulent or deceitful acts whereby  
14 another is injured by issuing an electronic Certificate of Compliance for the Saturn SL without  
15 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
16 thereby depriving the People of the State of California of the protection afforded by the Motor  
17 Vehicle Inspection Program.

18 **THIRTIETH CAUSE FOR DISCIPLINE**

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

20 59. Respondent Bayanzay's Technician License is subject to disciplinary action  
21 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent  
22 Bayanzay failed to comply with section 44012 of the Health and Safety Code in a material  
23 respect, as follows: Respondent Bayanzay failed to perform the emission control test on the  
24 Saturn SL in accordance with procedure prescribed by the department.

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1           63. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to  
2 validate, or may invalidate temporarily or permanently, the registrations for all places of business  
3 operated in this state by Respondent California Smog Only upon a finding that said Respondent  
4 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
5 pertaining to an automotive repair dealer.

6           64. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station  
7 License Number TC 262298, issued to Respondent California Smog is revoked or suspended, any  
8 additional license issued under this chapter in the name of said licensee may be likewise revoked  
9 or suspended by the director.

10          65. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station  
11 License Number TC 264464, issued to Respondent California Smog Only is revoked or  
12 suspended, any additional license issued under this chapter in the name of said licensee may be  
13 likewise revoked or suspended by the director.

14          66. Pursuant to Health and Safety Code section 44072.8, if Advanced Emission  
15 Specialist Technician License Number EA 631151, issued to Respondent Hedayatullah  
16 Bayanzay, is revoked or suspended, any additional license issued under this chapter in the name  
17 of said 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. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number ARD 262298, issued to Parvez Ahmed, owner of California Smog;

2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Parvez Ahmed;

3. Revoking or suspending Smog Check Station License Number TC 262298, issued to Parvez Ahmed, owner of California Smog;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Parvez Ahmed;

5. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number ARD 264464, issued to Nabila Iqball, owner of California Smog Only;

6. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Nabila Iqball;

7. Revoking or suspending Smog Check Station License Number TC 264464, issued to Nabila Iqball, owner of California Smog Only;

8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Nabila Iqball;

9. Revoking or suspending Advanced Emission Specialist Technician License Number EA 631151, issued to Hedayatullah Bayanzay;

10. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Hedayatullah Bayanzay;

11. Ordering Respondents California Smog, California Smog Only, and Bayanzay to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/22/11

 for Sherry Mehl  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

Doug BALATTI  
Assist. Chief  
B.A.R.