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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. 79/12-163

13 **DESERT JUNCTION SMOG TEST ONLY**  
14 **CHARLES RONALD TAYLOR, OWNER**  
15 **390 S. San Geronio Avenue, Unit B**  
16 **Banning, CA 92220**

**FIRST AMENDED**  
**ACCUSATION**

(Smog Check)

17 **Automotive Repair Dealer Reg. No. ARD 263844**  
18 **Smog Check, Test Only, Station License No.**  
19 **TC 263844**

and

20 **JOHN LOUIS BARROW, JR.**  
21 **448 East 15<sup>th</sup> Street, Unit 8**  
22 **Beaumont, CA 92223**

23 **Advanced Emission Specialist Technician**  
24 **License No. EA 632391 (to be designated upon**  
25 **renewal as EO 632391 and/or EI 632391)**

26 Respondents.

27 Complainant alleges:

28 **PARTIES/LICENSE INFORMATION**

1. Complainant John Wallauch brings this First Amended Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

1           **Desert Junction Smog Test Only; Charles Ronald Taylor, Owner**

2           2.     On or about January 20, 2011, the Bureau issued Automotive Repair Dealer  
3 Registration Number ARD 263844 (registration) to Charles Ronald Taylor, owner of Desert  
4 Junction Smog Test Only. Respondent Taylor's registration was in full force and effect at all  
5 times relevant to the charges brought herein, expired on January 31, 2013, and has remained  
6 delinquent since.

7           3.     On or about January 21, 2011, the Bureau issued Smog Check, Test Only, Station  
8 License Number TC 263844 (smog check station license) to Respondent Taylor. Respondent's  
9 smog check station license was in full force and effect at all times relevant to the charges brought  
10 herein, expired on January 31, 2013, and has remained delinquent since.

11           **John Louis Barrow, Jr.**

12           4.     On or about August 16, 2010, the Bureau issued Advanced Emission Specialist  
13 Technician License Number EA 632391 (technician license) to John Louis Barrow, Jr.  
14 Respondent Barrow's technician license was in full force and effect at all times relevant to the  
15 charges brought herein, expired on August 31, 2012, and has remained delinquent since. Upon  
16 renewal of the license, the license will be redesignated as EO 632392 and/or EI 632391.<sup>1</sup>

17           **Douglas James**

18           5.     In or about 1997, the Bureau issued Advanced Emission Specialist Technician License  
19 Number EA 137415 to Douglas James. On August 13, 2007, James' technician license was  
20 revoked.

21           6.     On August 13, 2009, in Riverside County Superior Court, Case No. RIF149288,  
22 James pled guilty to violating Penal Code section 502, subdivision (c)(1) (alter, damage, delete,  
23 destroy, or use data, computers, computer systems, etc., in order to devise or execute a  
24 scheme/artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or  
25 data), a felony. The imposition of James' sentence was suspended and James was placed on

26           <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 probation for 36 months on terms and conditions. Condition 6 of James' probation states that he  
2 may work in an automotive repair shop, but may not personally conduct or supervise smog  
3 testing.

4 7. On April 30, 2013, in Riverside County Superior Court, Case No. RIF1203380,  
5 James pled guilty to violating Penal Code sections 119 (perjury) and 502, subdivision (c)(1)  
6 (alter, damage, delete, destroy, or use data, computers, computer systems, etc., in order to devise  
7 or execute a scheme/artifice to defraud, deceive, or extort, or wrongfully control or obtain money,  
8 property, or data); and Vehicle Code section 4463, subdivision (a)(1), felonies all. The  
9 imposition of James' sentence was suspended and James was granted probation and placed on  
10 supervised release for 36 months on terms and conditions. Condition 2 of James' probation  
11 required him to pay victim restitution in the amount of \$12,008.21, pursuant to Penal Code  
12 section 1203.1, subdivision (A)(3), and Condition 12 of James' probation forbids him from  
13 working, directly or indirectly, for any automotive repair or smog shop, or engaging in  
14 performing smog checks.

#### 15 JURISDICTION

16 8. Business and Professions Code (Code) section 118, subdivision (b), states:

17 The suspension, expiration, or forfeiture by operation of law of a license  
18 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
19 order of the board or by order of a court of law, or its surrender without the written  
20 consent of the board, shall not, during any period in which it may be renewed,  
21 restored, reissued, or reinstated, deprive the board of its authority to institute or  
22 continue a disciplinary proceeding against the licensee upon any ground provided by  
23 law or to enter an order suspending or revoking the license or otherwise taking  
24 disciplinary action against the licensee on any such ground.

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

10 10. Health and Safety (H&S) Code section 44002 provides, in pertinent part, that the  
11 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
12 the Motor Vehicle Inspection Program.

1 11. H&S Code section 44072.6 provides, in pertinent part, that the expiration or  
2 suspension of a license by operation of law, or by order or decision of the Director, or a court of  
3 law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to  
4 proceed with disciplinary action.

5 12. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
6 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
7 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
8 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

9 **STATUTORY AND REGULATORY PROVISIONS**

10 13. Code section 490 states:

11 (a) In addition to any other action that a board is permitted to take against a  
12 licensee, a board may suspend or revoke a license on the ground that the licensee  
13 has been convicted of a crime, if the crime is substantially related to the  
14 qualifications, functions, or duties of the business or profession for which the  
15 license was issued.

16 (b) Notwithstanding any other provision of law, a board may exercise any  
17 authority to discipline a licensee for conviction of a crime that is independent of the  
18 authority granted under subdivision (a) only if the crime is substantially related to  
19 the qualifications, functions, or duties of the business or profession for which the  
20 licensee's license was issued.

21 (c) A conviction within the meaning of this section means a plea or verdict  
22 of guilty or a conviction following a plea of nolo contendere. An action that a board  
23 is permitted to take following the establishment of a conviction may be taken when  
24 the time for appeal has elapsed, or the judgment of conviction has been affirmed on  
25 appeal, or when an order granting probation is made suspending the imposition of  
26 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

27 (d) The Legislature hereby finds and declares that the application of this  
28 section has been made unclear by the holding in *Petropoulos v. Department of Real  
Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a  
significant number of statutes and regulations in question, resulting in potential  
harm to the consumers of California from licensees who have been convicted of  
crimes. Therefore, the Legislature finds and declares that this section establishes an  
independent basis for a board to impose discipline upon a licensee, and that the  
amendments to this section made by Chapter 33 of the Statutes of 2008 do not  
constitute a change to, but rather are declaratory of, existing law.

14. Code section 493 states:

Notwithstanding any other provision of law, in a proceeding conducted by a  
board within the department pursuant to law to deny an application for a license or  
to suspend or revoke a license or otherwise take disciplinary action against a person

1 who holds a license, upon the ground that the applicant or the licensee has been  
2 convicted of a crime substantially related to the qualifications, functions, and duties  
3 of the licensee in question, the record of conviction of the crime shall be conclusive  
4 evidence of the fact that the conviction occurred, but only of that fact, and the board  
5 may inquire into the circumstances surrounding the commission of the crime in  
6 order to fix the degree of discipline or to determine if the conviction is substantially  
7 related to the qualifications, functions, and duties of the licensee in question.

8 As used in this section, "license" includes "certificate," "permit,"  
9 "authority," and "registration."

10 15. Code section 9884.7 states, in pertinent part:

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

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

21 . . . .

22 (4) Any other conduct that constitutes fraud.

23 . . . .

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

26 . . . .

27 (b) Except as provided for in subdivision (c), if an automotive repair dealer  
28 operates more than one place of business in this state, the director pursuant to  
subdivision (a) shall only suspend, revoke, or place on probation 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 suspend, revoke or  
place on probation 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.

16. Code section 22, subdivision (a), states:

"Board" as used in any provision of this Code, refers to the board in which  
the administration of the provision is vested, and unless otherwise expressly  
provided, shall include "bureau," "commission," "committee," "department,"  
"division," "examining committee," "program," and "agency."

1 17. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes  
2 “registration” and “certificate.”

3 18. H&S Code section 44072.2 states, in pertinent part:

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

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

10 (b) Is convicted of any crime substantially related to the qualifications,  
11 functions, or duties of the license-holder in question.

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

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

16 . . . .

17 (f) Aids or abets unlicensed persons to evade the provisions of this chapter

18 . . . .

19 19. H&S Code section 44072.10 states, in pertinent part:

20 . . . .

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

25 (1) Clean piping, as defined by the department.

26 . . . .

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

20. H&S Code section 44072.8 states that when a license has been revoked or suspended  
following a hearing under this article, any additional license issued under this chapter in the name  
of the licensee may be likewise revoked or suspended by the director.

21. California Code of Regulations, title 16 (CCR), section 3340.1 states, in pertinent  
part:

1 "Clean piping," for the purposes of Health and Safety Code section  
2 44072.10(c)(1), means the use of a substitute exhaust emissions sample in place of  
3 the actual test vehicle's exhaust in order to cause the EIS to issue a certificate of  
4 compliance for the test vehicle . . .

5 **COST RECOVERY**

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

10 **VIDEO SURVEILLANCE OPERATION OF DECEMBER 29, 2011**

11 23. On December 29, 2011, representatives of the Bureau conducted a video surveillance  
12 operation of Respondent Taylor's smog check facility. The Bureau's VID (vehicle information  
13 database) data showed that Taylor's technician, Respondent Barrow, performed smog inspections  
14 on vehicles 1 through 8, identified in Table 1, below, and that electronic smog certificates of  
15 compliance were issued for vehicles 3 through 5 and 7. The surveillance video revealed that  
16 Barrow conducted the inspections on vehicles 1 through 6 and 8 using clean-piping methods and  
17 "clean-plugging" methods<sup>2</sup>, resulting in the issuance of fraudulent smog certificates of  
18 compliance for vehicles 3 through 5. The surveillance video also revealed that James, whose  
19 technician license was revoked on August 13, 2007, participated in the clean-piping of vehicle 7  
20 with an unidentified person, and that Respondent Barrow's technician license number and  
21 confidential access code were used during the inspection to certify the vehicle.

22 **TABLE 1**

23 <b>Time of Inspection</b>	24 <b>Vehicle Certified &amp; License No.</b>	25 <b>Vehicle Actually Tested</b>	26 <b>Certificate No.</b>	27 <b>Violation</b>
28 1. 1314 - 1324	1999 GMC Sierra C1500 pickup; License # 596563X	2001 Mazda 626; License # 4WUF065	None; smog test aborted	Vehicle was clean piped
2. 1328 - 1337	1999 GMC Sierra C1500 pickup; License # 596563X	2001 Mazda 626; License # 4WUF065	None; smog test aborted	Vehicle was clean piped
3. 1408 - 1421	2003 Toyota Camry; License # 5MBK426	2001 Mazda 626; License # 4WUF065	XB155898C	Vehicle was clean-plugged

<sup>2</sup> Clean-plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to 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.

1	4. 1434 - 1442	1999 GMC Sierra C1500 pickup; License # 596563X	2003 Toyota Camry; License # 5MBK426	XB155899C	Vehicle was clean piped
2	5. 1451 - 1515	1988 Ford Ranger; License # 3N16375	1994 Ford Escort; License # 3HPM654	XB155900C	Vehicle was clean piped
3	6. 1524- 1542	1990 Chrysler New Yorker; License # 2TMD107	1994 Ford Escort; License # 3HPM654	None; vehicle failed inspection	Vehicle was clean piped
4	7. 1554 - 1600	1998 Ford Explorer; License # 3XLV699	2004 Chrysler PT Cruiser; License # 5FQJ876	XB902051C	Vehicle was clean piped
5	8. 1607 - 1624	1984 Dodge D350 pickup; License # 2L64532	1994 Ford Escort; License # 3HPM654	None; vehicle failed inspection	Vehicle was clean piped
6					
7					

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 24. Respondent Taylor's registration is subject to disciplinary action pursuant to Code  
 11 section 9884.7, subdivision (a)(1), in that Respondent made statements which he knew or in the  
 12 exercise of reasonable care should have known to be untrue or misleading, as follows:

13 a. Respondent Taylor's technician, Respondent Barrow, certified that vehicle 3,  
 14 identified in paragraph 23 above, had passed inspection and was in compliance with applicable  
 15 laws and regulations. In fact, Barrow conducted the inspection on vehicle 3 using clean-plugging  
 16 methods in that he substituted or used a different vehicle during the OBD II functional test<sup>3</sup> in  
 17 order to issue a smog certificate of compliance for the vehicle, and did not test or inspect the  
 18 vehicle as required by H&S Code section 44012.

19 b. Respondent Taylor's technician, Respondent Barrow, certified that vehicles 4 and 5,  
 20 identified in paragraph 23 above, had passed inspection and were in compliance with applicable  
 21 laws and regulations. In fact, Barrow used clean-piping methods in order to issue certificates for  
 22 the vehicles and did not test or inspect the vehicles as required by H&S Code section 44012.

23  
 24  
 25 <sup>3</sup> The On Board Diagnostics (OBD II) functional test is an automated function of the  
 26 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an  
 27 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is  
 28 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.

1 c. Respondent Taylor's technician, Respondent Barrow, certified that vehicle 7,  
2 identified in paragraph 23 above, had passed inspection and was in compliance with applicable  
3 laws and regulations, when, in fact, the vehicle was clean piped. Further, James, whose  
4 technician license was revoked on August 13, 2007, participated in the clean-piping of the  
5 vehicle, and Barrow's technician license number and confidential access code were used during  
6 the inspection to certify the vehicle.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 25. Respondent Taylor's registration is subject to disciplinary action pursuant to Code  
10 section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud by  
11 issuing electronic smog certificates of compliance for vehicles 3 through 5 and 7, identified in  
12 paragraph 23 above, without ensuring that bona fide inspections were performed of the emission  
13 control devices and systems on the vehicles, thereby depriving the People of the State of  
14 California of the protection afforded by the Motor Vehicle Inspection Program.

15 **THIRD CAUSE FOR DISCIPLINE**

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

17 26. Respondent Taylor's smog check station license is subject to disciplinary action  
18 pursuant to H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
19 provisions of that Code, as follows:

20 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
21 performed on vehicles 1 through 8, identified in paragraph 23 above, in accordance with  
22 procedures prescribed by the department.

23 b. **Section 44014, subdivision (a):** Respondent authorized or permitted James to  
24 participate in the smog inspection on vehicle 7, identified in paragraph 23 above, when, in fact,  
25 James' technician license was revoked.

26 c. **Section 44015:** Respondent issued electronic smog certificates of compliance for  
27 vehicles 3 through 5 and 7, identified in paragraph 23 above, without ensuring that the vehicles  
28

1 were properly tested and inspected to determine if they were in compliance with H&S Code  
2 section 44012.

3 **FOURTH CAUSE FOR DISCIPLINE**

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

5 27. Respondent Taylor's smog check station license is subject to disciplinary action  
6 pursuant to H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
7 provisions of the CCR, as follows:

8 a. **Section 3340.35, subdivision (c):** Respondent Taylor issued electronic smog  
9 certificates of compliance for vehicles 3 through 5, and 7, identified in paragraph 23 above, even  
10 though those vehicles had not been inspected in accordance with section 3340.42.

11 b. **Section 3340.41, subdivision (c):** Respondent Taylor permitted Respondent Barrow  
12 to enter false information into the Emissions Inspection System (EIS) unit by entering vehicle  
13 identification information or emission control system identification data for vehicles other than  
14 the ones being tested.

15 c. **Section 3340.42:** Respondent Taylor failed to ensure that the required smog tests  
16 were conducted on vehicles 1 through 8, identified in paragraph 23 above, in accordance with the  
17 Bureau's specifications.

18 **FIFTH CAUSE FOR DISCIPLINE**

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

20 28. Respondent Taylor's smog check station license is subject to disciplinary action  
21 pursuant to H&S Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
22 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
23 compliance for vehicles 3 through 5 and 7, identified in paragraph 23 above, without ensuring  
24 that bona fide inspections were performed of the emission control devices and systems on the  
25 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
26 Motor Vehicle Inspection Program.

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**SIXTH CAUSE FOR DISCIPLINE**

**(Aiding or Abetting Unlicensed Persons)**

29. Respondent Taylor's smog check station license is subject to disciplinary action pursuant to H&S Code section 44072.2, subdivision (f), in that Respondent aided and abetted James, whose technician license was revoked on August 13, 2007, to evade the provisions of the Motor Vehicle Inspection Program, as set forth above.

**SEVENTH CAUSE FOR DISCIPLINE**

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

30. Respondent Barrow's technician license is subject to disciplinary action pursuant to H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on vehicles 1 through 8, identified in paragraph 23 above, in accordance with procedures prescribed by the department.

b. **Section 44014, subdivision (a):** Respondent permitted James to participate in the smog inspection on vehicle 7, identified in paragraph 23 above, when, in fact, James' technician license was revoked on August 13, 2007.

**EIGHTH CAUSE FOR DISCIPLINE**

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

31. Respondent Barrow's technician license is subject to disciplinary action pursuant to H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of the CCR, as follows:

a. **Section 3340.30, subdivision (a):** Respondent failed to ensure that vehicles 1 through 8, identified in paragraph 23 above, were inspected and tested in accordance with H&S Code sections 44012 and 44035, and the CCR, section 3340.42.

b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.

1 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
2 conducted on vehicles 1 through 8, identified in paragraph 23 above, in accordance with the  
3 Bureau's specifications.

4 **NINTH CAUSE FOR DISCIPLINE**

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

6 32. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
7 H&S Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent  
8 or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance  
9 for vehicles 3 through 5 and 7, identified in paragraph 23 above, without performing bona fide  
10 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
11 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
12 Program.

13 **TENTH CAUSE FOR DISCIPLINE**

14 **(Aiding or Abetting Unlicensed Persons)**

15 33. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
16 H&S Code section 44072.2, subdivision (f), in that Respondent aided and abetted James, whose  
17 technician license was revoked on August 13, 2007, to evade the provisions of the Motor Vehicle  
18 Inspection Program, as set forth above in paragraph 23 above.

19 **VIDEO SURVEILLANCE OPERATION OF JANUARY 5, 2012**

20 34. On January 5, 2012, representatives of the Bureau conducted a video surveillance  
21 operation of Respondent Taylor's smog check facility. The surveillance video and information  
22 obtained from the Bureau's VID revealed that Respondent Barrow issued electronic smog  
23 certificates of compliance on behalf of Taylor, certifying that he had tested and inspected the  
24 vehicles identified in Table 2 below and that the vehicles were in compliance with applicable  
25 laws and regulations. In fact, Barrow conducted the inspections using clean-piping methods,  
26 resulting in the issuance of fraudulent certificates of compliance for the vehicles. Further,  
27 vehicles 1 through 3 were not present at the station during the smog inspections.

28

TABLE 2

Time of Inspection	Vehicle Certified & License No.	Vehicle Actually Tested	Certificate No.
1. 1105- 1120	1997 Toyota 4 Runner; License # 5CJC628	2001 Mazda 626; License # 4WUF065	XB902073C
2. 1206 - 1219	2005 Kia Sorento; License # 5LJR324	2001 Mazda 626; License # 4WUF065	XB902074C
3. 1251 - 1302	2000 Ford Focus sedan; License # 5TIG944	2001 Mazda 626; License # 4WUF065	XB902075C
4. 1511 - 1524	2005 Chevrolet Impala; License # 5VQT38	2001 Mazda 626; License # 4WUF065	XB902076C

**ELEVENTH CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

35. Respondent Taylor's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Taylor's technician, Respondent Barrow, certified that vehicles 1 through 4, identified in paragraph 34 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Barrow used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles as required by H&S Code section 44012.

**TWELFTH CAUSE FOR DISCIPLINE**

**(Fraud)**

36. Respondent Taylor's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 34 above, without ensuring that bona fide inspections were performed of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.



1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 39. Respondent Taylor's smog check station license is subject to disciplinary action  
4 pursuant to H&S Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
5 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
6 compliance for vehicles 1 through 4, identified in paragraph 34 above, without ensuring that bona  
7 fide inspections were performed of the emission control devices and systems on the vehicles,  
8 thereby depriving the People of the State of California of the protection afforded by the Motor  
9 Vehicle Inspection Program.

10 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

12 40. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
13 H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with section  
14 44012 of that Code, as follows: Respondent failed to perform emission control tests on vehicles 1  
15 through 4, identified in paragraph 34 above, in accordance with procedures prescribed by the  
16 department.

17 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

19 41. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
20 H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions  
21 of the CCR, as follows:

22 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 1  
23 through 4, identified in paragraph 34 above, in accordance with H&S Code sections 44012 and  
24 44035, and the CCR, section 3340.42.

25 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS  
26 by entering vehicle identification information or emission control system identification data for  
27 vehicles other than the ones being tested.

28

1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1  
2 through 4, identified in paragraph 34 above, in accordance with the Bureau's specifications.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

5 42. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
6 H&S Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent  
7 or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance  
8 for vehicles 1 through 4, identified in paragraph 34 above, without performing bona fide  
9 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
10 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
11 Program.

12 **SURVEILLANCE OPERATION OF JANUARY 17, 2012**

13 43. On January 17, 2012, at approximately 1230 hours, representatives of the Bureau  
14 began visual surveillance of Respondent Taylor's smog check facility. At 1241 hours, a Mazda  
15 626 (Mazda) entered the facility's testing bay. At 1247 hours, one of the representatives observed  
16 Respondent Barrow removing the EIS exhaust sample probe from the rear of the Mazda (the  
17 Mazda remained in the testing bay until 1302 hours). The Bureau's VID data showed that  
18 between 1234 and 1301 hours, Barrow performed a smog inspection on a 1978 Dodge truck  
19 (Dodge truck), License No. 6N41029, resulting in the issuance of electronic smog Certificate of  
20 Compliance No. XB902096C. At 1302 hours, the representatives drove into the facility and  
21 parked their vehicle behind the Mazda. Later, one of the representatives questioned Barrow about  
22 the smog inspection on the Dodge truck. Barrow admitted that he clean-piped the Dodge truck  
23 using the Mazda, that the Dodge truck was not present at the facility, and that the paperwork for  
24 the Dodge truck had been faxed to the station.

25 **NINETEENTH CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 44. Respondent Taylor's registration is subject to disciplinary action pursuant to Code  
28 section 9884.7, subdivision (a)(1), in that Respondent made a statement which he knew or in the

1 exercise of reasonable care should have known to be untrue or misleading, as follows:

2 Respondent Taylor's technician, Respondent Barrow, certified that the Dodge truck had passed  
3 inspection and was in compliance with applicable laws and regulations. In fact, Barrow used  
4 clean piping methods in order to issue a certificate for the vehicle and did not test or inspect the  
5 vehicle as required by H&S Code section 44012.

6 **TWENTIETH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 45. Respondent Taylor's registration is subject to disciplinary action pursuant to Code  
9 section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud by  
10 issuing an electronic smog certificates of compliance for the Dodge truck without ensuring that a  
11 bona fide inspection was performed of the emission control devices and systems on the vehicle,  
12 thereby depriving the People of the State of California of the protection afforded by the Motor  
13 Vehicle Inspection Program.

14 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

16 46. Respondent Taylor's smog check station license is subject to disciplinary action  
17 pursuant to H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
18 provisions of that Code, as follows:

19 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
20 performed on the Dodge truck in accordance with procedures prescribed by the department.

21 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
22 the Dodge truck without ensuring that the vehicle was properly tested and inspected to determine  
23 if it was in compliance with H&S Code section 44012.

24 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

26 47. Respondent Taylor's smog check station license is subject to disciplinary action  
27 pursuant to H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
28 provisions of the CCR, as follows:

1 a. **Section 3340.35, subdivision (c)**: Respondent Taylor issued an electronic smog  
2 certificate of compliance for the Dodge truck even though the vehicle had not been inspected in  
3 accordance with section 3340.42.

4 b. **Section 3340.41, subdivision (c)**: Respondent Taylor permitted Respondent Barrow  
5 to enter false information into the EIS by entering vehicle identification information or emission  
6 control system identification data for a vehicle other than the one being tested.

7 c. **Section 3340.42**: Respondent Taylor failed to ensure that the required smog tests  
8 were conducted on the Dodge truck in accordance with the Bureau's specifications.

9 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

11 48. Respondent Taylor's smog check station license is subject to disciplinary action  
12 pursuant to H&S Code section 44072.2, subdivision (d), in that Respondent committed a  
13 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog  
14 certificate of compliance for the Dodge truck without ensuring that a bona fide inspection was  
15 performed of the emission control devices and systems on the vehicle, thereby depriving the  
16 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
17 Program.

18 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

20 49. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
21 H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with section  
22 44012 of that Code, as follows: Respondent failed to perform the emission control tests on the  
23 Dodge truck in accordance with procedures prescribed by the department.

24 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

26 50. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
27 H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions  
28 of the CCR, as follows:

1 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Dodge  
2 truck in accordance with H&S Code sections 44012 and 44035, and the CCR, section 3340.42.

3 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS  
4 by entering vehicle identification information or emission control system identification data for a  
5 vehicle other than the one being tested.

6 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the Dodge  
7 truck in accordance with the Bureau's specifications.

8 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

10 51. Respondent Barrow's technician license is subject to disciplinary action pursuant to  
11 H&S Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent  
12 or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance  
13 for the Dodge truck without performing a bona fide inspection of the emission control devices  
14 and systems on the vehicle, thereby depriving the People of the State of California of the  
15 protection afforded by the Motor Vehicle Inspection Program.

16 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

17 **(Conviction of a Crime Substantially Related to Respondent's Technician License)**

18 52. Respondent Barrow's technician license is subject to discipline under Code section  
19 490 and H&S Code section 44072.2, subdivision (b), in that he was convicted of a crime  
20 substantially related to the qualifications, functions, and duties of a licensed smog technician.

21 The circumstances are as follows:

22 a. On April 30, 2013, in the case of *People v. John Louis Barrow*, Riverside County  
23 Superior Court Case No. RIF1203380, Respondent Barrow was convicted by his plea of guilty of  
24 violating Penal Code (PC) sections 502, subdivision (c)(1) (alter, damage, delete, destroy, or use  
25 data, computers, computer systems, etc., in order to devise or execute a scheme/artifice to  
26 defraud, deceive, or extort, or wrongfully control or obtain money, property, or data); and Vehicle  
27 Code (VC) section 4463, subdivision (a)(1) (false evidences and uses of documents, licenses,  
28 devices, placards, or plates), misdemeanors. The July 11, 2012, criminal complaint charged

1 Respondent Barrow with two counts each of violating PC sections 118 (perjury) and 502,  
2 subdivision (c)(1) (willfully accessing/ altering computer data with fraudulent intent), and VC  
3 section 4463, subdivision (a)(1) (willfully forge/falsify smog check certificates with fraudulent  
4 intent), but the PC section 118 counts and one of each of the two PC section 502 (c)(1) and VC  
5 section 4463(a)(1) counts were dismissed in the interest of justice. The remaining PC section  
6 502(c)(1) and VC 4463(a)(1) counts were reduced to misdemeanors, per Respondent's April 30,  
7 2013 plea agreement.

8 b. As a result of the conviction, on May 7, 2013 Respondent Barrow was granted  
9 summary probation for 36 months on terms and conditions. Condition 2 of Barrow's probation  
10 committed him to the custody of the Riverside County Sheriff for 90 days, 58 days of which were  
11 to be served in the work release program, and Condition 4 required him to pay victim restitution  
12 in the amount of \$12,008.21, pursuant to PC section 1203.1, subdivision (A)(3).

13 c. The circumstances of the crime were that on December 29, 2011, and January 5 and  
14 17, 2012, Respondent Barrow willfully, unlawfully, and with the intent to defraud, prejudice and  
15 damage, alter, forge, counterfeit, and falsify issued smog check certificates to and for vehicles, as  
16 detailed in Tables 1 and 2, and paragraphs 23, 34, and 43 above.

#### 17 OTHER MATTERS

18 53. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or  
19 place on probation the registration for all places of business operated in this state by Respondent  
20 Charles Ronald Taylor, owner of Desert Junction Smog Test Only, upon a finding that said  
21 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
22 regulations pertaining to an automotive repair dealer.

23 54. Pursuant to H&S Code section 44072.8, if Smog Check, Test Only, Station License  
24 Number TC 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog Test Only,  
25 is revoked or suspended, any additional license issued under this chapter in the name of said  
26 licensee may be likewise revoked or suspended by the Director.

27 55. Pursuant to H&S Code section 44072.8, if Advanced Emission Specialist Technician  
28 License currently designated as EA 632391 and as redesignated upon timely renewal as EO

1 632391 and/or EI 632391, is/are revoked or suspended, any additional license issued under this  
2 chapter in the name of said licensee may be likewise revoked or suspended by the Director.

3 **PRAYER**

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

- 6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
7 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog Test Only;
- 8 2. Revoking or suspending any other automotive repair dealer registration issued to  
9 Charles Ronald Taylor;
- 10 3. Revoking or suspending Smog Check, Test Only, Station License Number TC  
11 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog Test Only;
- 12 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
13 and Safety Code in the name of Charles Ronald Taylor;
- 14 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
15 currently designated as EA 632391 and as redesignated upon timely renewal as EO 632391  
16 and/or EI 632391, issued to John Louis Barrow, Jr.;
- 17 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
18 and Safety Code in the name of John Louis Barrow, Jr.;
- 19 7. Ordering Charles Ronald Taylor, owner of Desert Junction Smog Test Only, and John  
20 Louis Barrow, Jr. to pay the Bureau of Automotive Repair the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Code section 125.3;
- 22 8. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: JUNE 24, 2013

  
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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