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

In the Matter of the Accusation Against:

Case No. 79/16-60

**FADI JAMIL JWEINAT dba FIVE STAR
SMOG CENTER**
825 West Ave. L-8, Unit D
Lancaster, CA 93534

DEFAULT DECISION AND ORDER

Automotive Repair Dealer Registration No.
ARD 280573
Smog Check Station License No. RC 280573,

[Gov. Code, §11520]

and

FADI JAMIL JWEINAT
43355 Sunny Lane
Lancaster, CA 93536

Smog Check Inspector License No. EO
634488
Smog Check Repair Technician License No.
EI 634488 (*formerly Advanced Emission
Specialist Technician EA 634488*)

Respondent.

FINDINGS OF FACT

1
2 1. On or about April 6, 2016, Complainant Patrick Dorais, in his official capacity as the
3 Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
4 No. 79/16-60 against Fadi Jamil Jweinat, dba Five Star Smog Center, and Fadi Jamil Jweinat,
5 individually (collectively hereinafter, "Respondent") before the Director of Consumer Affairs.
6 (Accusation attached as Exhibit A.)

7 2. On or about June 16, 2015, the Bureau of Automotive Repair issued Automotive
8 Repair Dealer Registration Number ARD 280573 to Fadi Jamil Jweinat, dba Five Star Smog
9 Center. On March 25, 2016, an Interim Suspension Order was issued against Respondent's
10 Automotive Repair Dealer Registration pending a decision and order in these proceedings.
11 Respondent's Automotive Repair Dealer Registration will expire on June 30, 2016,
12 unless renewed.

13 3. On or about July 1, 2015, the Bureau of Automotive Repair issued Smog Check
14 Station License Number RC 280573 to Fadi Jamil Jweinat, dba Five Star Smog Center. On
15 March 25, 2016, an Interim Suspension Order was issued against Respondent's Smog Check
16 Station License pending a decision and order in these proceedings. Respondent's Smog Check
17 Station License will expire on June 30, 2016, unless renewed.

18 4. On July 16, 2012, the Bureau of Automotive Repair issued Advanced Emission
19 Specialist Technician License EA 634488 to Fadi Jamil Jweinat. Pursuant to California Code of
20 Regulations, title 16, section 3340.28, subdivision (e), upon Respondent's election, said license
21 was renewed as Smog Check Inspector License EO 634488 and Smog Check Repair Technician
22 License No. EI 634488, effective October 8, 2014. On March 25, 2016, an Interim Suspension
23 Order was issued against Respondent's Smog Check Inspector License and Smog Check Repair
24 Technician License. The licenses will expire on November 30, 2016, unless renewed.

25 5. On or about April 7, 2016, Respondent was served by Certified Mail and First Class
26 U.S. Mail copies of the Accusation No. 79/16-60, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's addresses of record which, pursuant to Business and Professions

1 Code section 136, are required to be reported and maintained with the Bureau. Respondent's
2 addresses of record were and are:

3 825 West Ave. L-8, Unit D
4 Lancaster, CA 93534

5 and

6 43355 Sunny Lane
7 Lancaster, CA 93536

8 6. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
10 124.

11 7. On or about April 22, 2016, the aforementioned documents that were served on
12 Respondent via Certified Mail at 43355 Sunny Lane, Lancaster, CA 93536, were returned by the
13 U.S. Postal Service marked "Unable to Forward."

14 8. Government Code section 11506(c) states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense . . . and the notice shall be deemed a specific denial of all
17 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
18 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
19 discretion may nevertheless grant a hearing.

20 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 79/16-60.

23 10. California Government Code section 11520(a) states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense . . . or to appear at
25 the hearing, the agency may take action based upon the respondent's express
26 admissions or upon other evidence and affidavits may be used as evidence without
27 any notice to respondent

28 11. Pursuant to its authority under Government Code section 11520, the Director after
having reviewed the proof of service dated April 7, 2016, signed by Lisa M. Robinson and the
aforementioned returned Certified Mail envelope finds that Respondent is in default. The
Director will take action without further hearing and, based on Accusation, No. 79/16-60, the

1 proof of service and copies of all materials identified therein, and on the Affidavit of Bureau
2 Representative Jorge Echevarria, finds that the allegations in Accusation are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Fadi Jamil Jweinat, dba Five Star
5 Smog Center, has subjected his Automotive Repair Dealer Registration No. ARD 280573 and his
6 Smog Check Station License No. RC 280573 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Bureau is authorized to revoke Respondent's Automotive Repair Dealer
9 Registration and Smog Check Station License based upon the following violations alleged in the
10 Accusation which are supported by the evidence contained in the affidavit of Bureau
11 Representative Jorge Echevarria in this case:

- 12 a. Business and Professions Code § 9884.7(a)(1): Misleading Statements;
- 13 b. Business and Professions Code § 9884.7(a)(4): Fraudulent Conduct;
- 14 c. Business and Professions Code § 9884.7(a)(6): Violation of Automotive Repair
15 Act;
- 16 d. Health and Safety Code § 44072.2(a): Violation of Motor Vehicle Inspection
17 Program;
- 18 e. Health and Safety Code § 44072.2(c): Violation of Regulations Enacted
19 Pursuant to Motor Vehicle Inspection Program;
- 20 f. Health and Safety Code § 44072.2(d): Dishonesty/Fraud/Deceit.

21 4. Based on the foregoing findings of fact, Respondent Fadi Jamil Jweinat has subjected
22 his Smog Check Inspector License No. EO 634488 and his Smog Check Repair Technician
23 License No. EI 634488 to discipline.

24 5. With respect to those licenses, the agency again has jurisdiction to adjudicate this
25 case by default.

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1 6. The Bureau is authorized to revoke Respondent's Smog Check Inspector License and
2 Smog Check Repair Technician License based upon the following violations alleged in the
3 Accusation which are supported by the evidence contained in the affidavit of Bureau
4 Representative Jorge Echevarria in this case:

- 5 a. Health and Safety Code § 44072.2(a): Violation of Motor Vehicle Inspection
6 Program;
- 7 b. Health and Safety Code § 44072.2(c): Violation of Regulations Enacted
8 Pursuant to Motor Vehicle Inspection Program;
- 9 c. Health and Safety Code § 44072.2(d): Dishonesty/Fraud/Deceit.

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ORDER

1 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 280573 and
2 Smog Check Station License No. RC 280573, heretofore issued to Respondent Fadi Jamil
3 Jweinat, dba Five Star Smog Center, are revoked.

4 IT IS FURTHER ORDERED that Smog Check Inspector License No. EO 634488 and
5 Smog Check Repair Technician License No. EI 634488, heretofore issued to Respondent Fadi
6 Jamil Jweinat, are revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
10 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
11 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
12 on a showing of good cause, as defined in the statute.

13 This Decision shall become effective on July 28th, 2016

14 It is so ORDERED June 28th, 2016

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KURT HEPPLER
Supervising Attorney
Division of Legal Affairs
Department of Consumer Affairs

52072101.DOC
DOJ Matter ID:LA2016600888

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:
12
13 FADI JAMIL JWEINAT dba FIVE STAR
SMOG CENTER
825 West Ave. L-8, Unit D
14 Lancaster, CA 93534
15 Automotive Repair Dealer Registration No.
ARD 280573
16 Smog Check Station License No. RC 280573,
17 and
18 FADI JAMIL JWEINAT
43355 Sunny Lane
19 Lancaster, CA 93536
20 Smog Check Inspector License No. EO
634488
21 Smog Check Repair Technician License No.
EI 634488 (*formerly Advanced Emission*
22 *Specialist Technician EA 634488*)
23 Respondent.

Case No. 79/16-60

A C C U S A T I O N

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
4 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

5 2. On or about June 16, 2015, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 280573 to Fadi Jamil Jweinat, dba Five Star Smog
7 Center. On March 25, 2016, an Interim Suspension Order was issued against Respondent's
8 Automotive Repair Dealer Registration pending a decision and order in these proceedings.
9 Respondent's Automotive Repair Dealer Registration will expire on June 30, 2016,
10 unless renewed.

11 3. On or about July 1, 2015, the Bureau of Automotive Repair issued Smog Check
12 Station License Number RC 280573 to Fadi Jamil Jweinat, dba Five Star Smog Center. On
13 March 25, 2016, an Interim Suspension Order was issued against Respondent's Smog Check
14 Station License pending a decision and order in these proceedings. Respondent's Smog Check
15 Station License will expire on June 30, 2016, unless renewed.

16 4. On July 16, 2012, the Bureau of Automotive Repair issued Advanced Emission Specialist
17 Technician License EA 634488 to Fadi Jamil Jweinat. Pursuant to California Code of
18 Regulations, title 16, section 3340.28, subdivision (e), upon Respondent's election, said license
19 was renewed as Smog Check Inspector License EO 634488 and Smog Check Repair Technician
20 License No. EI 634488, effective October 8, 2014. On March 25, 2016, an Interim Suspension
21 Order was issued against Respondent's Smog Check Inspector License and Smog Check Repair
22 Technician License. The licenses will expire on November 30, 2016, unless renewed.

23 **JURISDICTION**

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

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1 11. Section 9889.9 of the BPC states that "[w]hen any license has been revoked or
2 suspended following a hearing under the provisions of this article [Article 7 (commencing with
3 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
4 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
5 director."

6 12. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations
7 shall be performed in accordance with procedures prescribed by the department.

8 13. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance
9 shall be issued if a vehicle meets the requirements of HSC section 40012.

10 14. Section 44032 of the HSC states, in pertinent part, that: (1) no person may perform
11 tests or repairs of emission control devices or systems of motor vehicles required by the Motor
12 Vehicle Inspection Program unless the person performing the test or repair is a licensed qualified
13 smog check technician; and (2) all tests must be conducted in accordance with section 44012 (i.e.
14 Motor Vehicle Inspection Program Requirements).

15 15. Section 44059 of the HSC provides:

16 "The willful making of any false statement or entry with regard to a material matter in any
17 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
18 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
19 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code."

20 16. Section 44072.2 of the HSC states, in pertinent part:

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

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

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

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1 COST RECOVERY

2 23. Section 125.3, subdivision (a), of the BPC provides, in pertinent part, that a Board
3 "may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 DATA ANALYSIS OF CLEAN PLUGGING ACTIVITIES

7
8 24. On March 9, 2015, the Bureau implemented a policy change requiring the use of
9 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas
10 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer
11 diesel powered vehicles 14,000 GVW and under. The OIS Test Data provides the Bureau with a
12 wealth of electronic information about the vehicle that is connected to the system, making the
13 OIS a vital tool in the Bureau's ongoing efforts to root out fraudulent conduct in the smog
14 inspection business. For example, among other things, the OIS Bureau Test Data reveals any
15 differences between the Vehicle Identification Numbers (VIN) entered into the emission
16 inspection system (i.e., "BAR 97") by the smog technician at the time of the inspection and the
17 VIN electronically programmed into the vehicle by the manufacturer ("eVIN"). Such
18 discrepancies between the VIN entered by the smog technician and the eVIN programmed into
19 the vehicle by the manufacturer are indicative of illegal "clean plugging".¹

20 Clean Plugging While an Employee of AW Smog Center

21 25. In May 2015, Bureau representative Jorge Echevarria conducted an investigation
22 in which he reviewed specific OIS Test Data for inspections performed by Respondent while an
23 employee of AW Smog Center between April 1, 2015, and April 21, 2015. Representative
24 Echevarria's investigation revealed fifty-one (51) instances in which the VIN numbers entered by
25

26 ¹ Clean plugging refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

1 Respondent for the vehicles at the time of their inspections did not match the eVINs that were
 2 transmitted electronically by the vehicles during the testing process. These documented
 3 discrepancies between the VIN numbers entered by Respondent at the time of inspection and the
 4 eVINS electronically transmitted from the vehicles during the inspections confirm that the fifty-
 5 one (51) vehicles certified by Respondent were fraudulently tested during the smog inspection
 6 using the clean plugging method described above. The following chart ("Table 1") illustrates the
 7 documented clean plugging activities by Respondent while an employee of AW Smog Center
 8 between April 1, 2015, and April 21, 2015.

9 Table 1

11 Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
12 4/1/2015 13 0931 - 0943 hours	2005 Chevrolet Silverado 14 7U05474	YP707037C	eVIN transmitted was for 2000 Ford Expedition; test performed by Respondent.
15 4/1/2015 16 0944 - 0947 hours	2007 Nissan 350Z 17 6KID059	YP707038C	eVIN transmitted was for 2000 Ford Expedition; test performed by Respondent.
18 4/1/2015 19 1608 - 1613 hours	2000 Mitsubishi Mirage 20 6JRK030	YP707042C	eVIN transmitted was for 2007 Toyota Camry; test performed by Respondent.
21 4/1/2015 22 1618 - 1622 hours	2008 Mitsubishi Lancer Evolution 23 6DJR369	YP707044C	eVIN transmitted was for 2007 Toyota Camry; test performed by Respondent.
24 4/2/2015 25 0959 - 1002 hours	2007 Chevrolet Trail Blazer 26 5YQD239	YP707047C	eVIN transmitted was for 2009 Chrysler Town & Country; test performed by Respondent.

1	4/2/2015	2006 Dodge Charger	YP707050C	eVIN transmitted was
2	1129 - 1134 hours	5XGB190		for 2002 Chevrolet
3				Express; test performed
4	4/2/2015	2002 Nissan Altima	YP846503C	eVIN transmitted was
5	1624 - 1630 hours	VIN#		for 2003 Chevrolet
6		1N4AL11DX2C117885		Cavaller; test performed
7	4/3/2015	2007 Chevrolet	YP846509C	eVIN transmitted was
8	1218 - 1222 hours	Colorado		for 2005 Chevrolet
9		8H97818		Silverado; test
10				performed by
11	4/3/2015	2003 Chevrolet Monte	YP846510C	eVIN transmitted was
12	1227 - 1230 hours	Carlo		for 2003 Chevrolet
13		5BAH219		Cavaller; test performed
14	4/3/2015	2000 Mitsubishi Galant	YP846511C	eVIN transmitted was
15	1231 - 1233 hours	4VOX754		for 2003 Chevrolet
16				Cavaller; test performed
17	4/3/2015	2005 Dodge Neon SRT	YP846518C	eVIN transmitted was
18	1606 - 1609 hours	7AMM789		for 2002 Oldsmobile
19				Silhouette; test
20				performed by
21	4/6/2015	2004 Chevrolet Impala,	YP846529C	eVIN transmitted was
22	1104 - 1109 hours	6GWD181		for 2001 Lincoln
23				Navigator; test
24	4/6/2015	2001 Volkswagen Jetta	YP846532C	eVIN transmitted was
25	1453 - 1457 hours	GLS		for 2004 Ford
26		6GJH992		Expedition; test
27				performed by
28				Respondent.

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4/6/2015 1458 - 1502 hours	2005 Chevrolet Tahoe C1500 6SNU694	YP846533C	eVIN transmitted was for 2004 Ford Expedition; test performed by Respondent.
4/6/2015 1533 - 1537 hours	2002 Mercury Mountaineer 4XEC994	YP846536C	eVIN transmitted was for 2005 Dodge Magnum; test performed by Respondent.
4/6/2015 1638 - 1643 hours	2003 Ford F150 8Z59373	YP846537C	eVIN transmitted was for 2011 Toyota; test performed by Respondent.
4/7/2015 1627 - 1630 hours	2002 Toyota Camry 4YRV946	YP846542C	eVIN transmitted was for 2000 Ford Expedition; test performed by Respondent.
4/8/2015 1308 - 1312 hours	2004 Mitsubishi Galant 6RAA160	YP846545C	eVIN transmitted was for 2001 GMC Sierra; test performed by Respondent.
4/10/2015 1123 - 1126 hours	2004 Nissan Titan VIN 1N6AA06A04N587551	YP936708C	eVIN transmitted was for 2007 Toyota Camry; test performed by Respondent.
4/10/2015 1553 - 1557 hours	2001 Chevrolet Camaro Z28 4RZP891	YP936711C	eVIN transmitted was for 2005 Ford Econoline; test performed by Respondent.
4/10/2015 1558 - 1602 hours	2006 Mazda MazdaSpeed 6 TFT568	YP936712C	eVIN transmitted was for 2005 Ford Econoline; test performed by Respondent.

1	4/11/2015	2000 Chevrolet Silverado 6X88873	YP936716C	eVIN transmitted was for 2007 Chevrolet Colorado; test performed by Respondent.
2	0835 - 0842 hours			
3				
4	4/11/2015	2008 Mitsubishi Lancer AWDFISH	YP936718C	eVIN transmitted was for 2008 Chevrolet Cobalt; test performed by Respondent.
5	0937 - 0940 hours			
6				
7	4/11/2015	2006 Acura 3.2TL VIN 19UUA66296A042603	YP936719C	eVIN transmitted was for 2008 Chevrolet Cobalt; test performed by Respondent.
8	0940 - 0944 hours			
9				
10	4/11/2015	2003 Lincoln Navigator 4XUG504	YP936720C	eVIN transmitted was for 2008 Chevrolet Cobalt; test performed by Respondent.
11	0944 - 0948 hours			
12				
13	4/11/2015	2005 Ford F150 8E29943	YP936722C	eVIN transmitted was for 2006 Honda Accord; test performed by Respondent.
14	1536 - 1539 hours			
15				
16	4/11/2015	2002 Jeep Wrangler, Z985032	YP936723C	eVIN transmitted was for 2006 Honda Accord; test performed by Respondent.
17	1540 - 1544 hours			
18				
19	4/12/2015	2001 Cadillac Deville 6HLW762	YP936726C	eVIN transmitted was for 2006 Honda Accord; test performed by Respondent.
20	1016 - 1023 hours			
21				
22	4/13/2015	2006 Mazda MazdaSpeed6 5TUV558	YP936728C	eVIN transmitted was for 2004 Dodge Durango; test performed by Respondent.
23	1111 - 1115 hours			
24				
25	4/13/2015	2007 Chevrolet Silverado C1500 CKNURHM	YP936729C	eVIN transmitted was for 2004 Dodge Durango; test performed by Respondent.
26	1115 - 1119 hours			
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1	4/13/2015	2001 Ford Explorer	YP936731C	eVIN transmitted was
2	1145 - 1148 hours	7B28457		for 2003 Ford Ranger;
3				test performed by
4	4/14/2015	2007 Cadillac C/T	YP936733C	Respondent.
5	0859 - 0904 hours	6JLT753		eVIN transmitted was
6				for 2007 Mitsubishi
7	4/14/2015	2004 Chevrolet Venture	YP936736C	Galant; test performed
8	0937 - 0941 hours	6NQW900		by Respondent.
9				eVIN transmitted was
10	4/14/2015	2003 Toyota RAV4,	YP936737C	for 2004 Ford Taurus;
11	0941 - 0945 hours	5BVC154		test performed by
12				Respondent.
13	4/14/2015	2000 Oldsmobile Alero,	YP936738C	eVIN transmitted was
14	1121 - 1129 hours	4KGM034		for 2006 Dodge
15				Magnum; test performed
16	4/14/2015	2004 Ford F250 Super	YP936739C	by Respondent.
17	1130 - 1134 hours	Duty		eVIN transmitted was
18		VIN		for 2006 Dodge
19		1FTNW2IP34BD06761		Magnum; test performed
20	4/14/2015	2001 Mitsubishi Mirage	YP936740C	by Respondent.
21	1134 - 1139 hours	5AIR337		eVIN transmitted was
22				for 2006 Dodge
23	4/14/2015	2002 Cadillac Escalade	YP936741C	Magnum; test performed
24	1140 - 1144 hours	VIN		by Respondent.
25		1GYEC63T22RI35110		eVIN transmitted was
26	4/14/2015	2006 Pontiac G6	YP936744C	for 2009 Chevrolet
27	1316 - 1324 hours	7CQE238		Tahoe; test performed
28				by Respondent.

1	4/14/2015	2005 Ford F350 Super Duty	YP936745C	eVIN transmitted was for 2005 Kia Sedona; test performed by Respondent.
2	1701 - 1704 hours	7057026		
3				
4	4/16/2015	2005 Infinity G35	YR058859C	eVIN transmitted was for 2007 GMC Acadia; test performed by Respondent.
5	1151 - 1156 hours	7CHW868		
6				
7	4/16/2015	2002 BMW 5301	YR058860C	eVIN transmitted was for 2010 Nissan; test performed by Respondent.
8	1421 - 1429 hours	7GZF662		
9				
10	4/16/2015	2002 Volkswagen Passat	YR058861C	eVIN transmitted was for 2010 Nissan; test performed by Respondent.
11	1430 - 1434 hours	4WDS179		
12				
13	4/18/2015	2002 Honda Civic	YR058871C	eVIN transmitted was for 2012 Honda; test performed by Respondent.
14	0858 - 0920 hours	6XZW356		
15				
16	4/18/2015	2004 Nissan Maxima	YR058875C	eVIN transmitted was for 2011 Toyota; test performed by Respondent.
17	1111 - 1115 hours	5PVJ047		
18				
19	4/20/2015	2004 Dodge Neon	YR058880C	eVIN transmitted was for 2011 Toyota; test performed by Respondent.
20	0925 - 0928 hours	6NUM600		
21				
22	4/20/2015	2001 Chevrolet Cavalier	YR058883C	eVIN transmitted was for 2011 Toyota; test performed by Respondent.
23	1547 - 1556 hours	4WPP775		
24				
25	4/20/2015	2001 Ford F150	YR058884C	eVIN transmitted was for 2011 Toyota; test performed by Respondent.
26	1557 - 1602 hours	7D62179		
27				
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1	4/21/2015	2005 BMW 545I	YR058886C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.
2	1055 - 1100 hours	6GJS378		
3				
4	4/21/2015	2006 Subaru Imprezza WRX	YR058887C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.
5	1103 - 1107 hours	5VFJ610		
6				
7	4/21/2015	2002 Honda Civic	YR058888C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.
8	1108 - 1112 hours	4XEW1.15		
9				

10 * Test times are in military time.

11 Two (2) Additional Clean Plugs at AW Smog Center

12

13 26. On May 26, 2015, Respondent went to the Bureau's Valencia Field Office to

14 remove his smog inspector access from AW Smog Center in preparation for opening his own

15 smog station (i.e., Five Star Smog Center). At that time, Respondent was presented with two (2)

16 vehicle inspection reports ("VIRs") from recent smog inspections he had performed at AW Smog

17 Center. Respondent confirmed that he had performed the inspections and represented that they

18 had been properly performed. Using OIS test data, however, Bureau program representative

19 Jorge Echevarria was able to confirm that those two inspections were also fraudulent. The

20 following chart ("Table 2") illustrates these two (2) additional documented clean plugging

21 activities by Respondent on May 5, 2015.

22 Table 2

23 Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
24 05/05/2015	2000 Toyota Avalon,	PS037685	eVIN transmitted was for 2007 Volvo S40; test performed by Respondent.
25 1524-1530 hours	4KXE654		
26			
27			

1 2 3	05/05/2015 1531-1534 hours	2002 Mitsubishi Lancer 7BUV190	PS037686	eVIN transmitted was for 2007 Volvo S40; test performed by Respondent.
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* Test times are in military time.

Clean Plugging Activities at Five Star Smog Center

27. In November 2015, Bureau representative Jorge Echevarria conducted an investigation in which he reviewed specific OIS Test Data for Five Star Smog Center for inspections performed between August 12, 2015, and October 22, 2015. Representative Echevarria's investigation revealed four (4) instances in which the VIN numbers entered by Respondent for the vehicles at the time of the inspections did not match the eVINs that were transmitted electronically by the vehicles during the testing process. These documented discrepancies between the VIN numbers entered by Respondent at the time of inspection and the eVINS electronically transmitted from the vehicles during the inspections confirm that the vehicles receiving smog certificates from Respondent were fraudulently tested during the smog inspection using the clean-plugging method. The following chart ("Table 3") illustrates the documented clean plugging activities of Respondent as described above.

Table 3

Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
08/12/2015 1749-1752 hours	2007 Chrysler PT Cruiser 6CTT411	YT456600C	eVIN transmitted was for 2005 Kia Sedona; test performed by Respondent.
10/20/2015 1252-1257 hours	2009 Nissan Altima 6NJK505	PY557152C	eVIN transmitted was for 2002 Saturn LW200; test performed by Respondent.
10/20/2015 1626-1658 hours	2007 Nissan Versa 6SVZ759	PY557153C	eVIN transmitted was for Respondent's 2012 Honda; test performed by Respondent.

1 2 3	10/22/2015 1446-1451 hours	2009 Chrysler Sebring LX 7GLT133	PY557156C	eVIN transmitted was for Respondent's 2012 Honda; test performed by Respondent.
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4 * Test times are in military time.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Misleading Statements).

7 28. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his
8 registration to discipline under BPC section 9884.7, subdivision (a)(1), in that he made statements
9 which he knew or which by exercise of reasonable care should have known were untrue or
10 misleading when he issued electronic certificates of compliance for the vehicles set forth in
11 Tables 1 - 3, above, certifying that those vehicles were in compliance with applicable laws and
12 regulations when, in fact, those vehicles had not been so inspected. Complainant refers to, and by
13 this reference incorporates, the allegations contained in paragraphs 24 through 27, inclusive, as
14 though set forth fully herein.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Fraud)

17 29. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his
18 registration to discipline under BPC section 9884.7, subdivision (a)(4), in that he committed acts
19 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in
20 Tables 1 - 3, above, without performing bona fide inspections of the emission control devices and
21 systems on those vehicles, thereby depriving the People of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
23 reference incorporates, the allegations contained in paragraphs 24 through 27, inclusive, as
24 though set forth fully herein.

25 **THIRD CAUSE FOR DISCIPLINE**

26 (Material Violation of Automotive Repair Act)

27 30. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his
28 registration to discipline under BPC section 9884.7, subdivision (a)(6), in that he failed in a

1 "material respect to comply with the provisions of this chapter or regulations adopted pursuant to
2 it" when he issued electronic certificates of compliance for the vehicles set forth in Tables 1 - 3,
3 above, without performing bona fide inspections of the emission control devices and systems on
4 those vehicles, thereby depriving the People of the State of California of the protection afforded
5 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
6 incorporates, the allegations contained in paragraphs 24 through 27, as though set forth fully
7 herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 (Violation of the Motor Vehicle Inspection Program)

10 31. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station
11 license to discipline under HSC section 44072.2, subdivision (a), in that, with respect to the
12 vehicles set forth in Tables 1 - 3, above, Respondent violated the following sections of the HSC:

13 a. Section 44012: Respondent failed to ensure that the emission control tests were
14 performed on those vehicles in accordance with procedures prescribed by the department.

15 b. Section 44015; subdivision (b): Respondent issued electronic certificates of
16 compliance without properly testing and inspecting the vehicles to determine if they were in
17 compliance with section 44012 of the HSC.

18 c. Section 44059: Respondent willfully made false entries for the electronic certificates
19 of compliance by certifying that those vehicles had been inspected as required when, in fact, they
20 had not.

21 **FIFTH CAUSE FOR DISCIPLINE**

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

23 32. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station
24 license to discipline under HSC section 44072.2, subdivision (c), in that, with respect to the
25 vehicles set forth in Tables 1 - 3; above, Respondent violated the following sections of title 16 of
26 the CCR:

27 ///

28 ///

1 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
2 electronic certificates of compliance without performing bona fide inspections of the emission
3 control devices and systems on those vehicles as required by HSC section 44012.

4 b. Section 3340.35, subdivision (c): Respondent issued electronic certificates of
5 compliance even though those vehicles had not been inspected in accordance with section
6 3340.42 of the HSC.

7 c. Section 3340.42: Respondent failed to conduct the required smog tests and
8 inspections on those vehicles in accordance with the Bureau's specifications.

9 **SIXTH CAUSE FOR DISCIPLINE**

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

11 33. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station
12 license to discipline under HSC section 44072.2, subdivision (d), in that, with respect to the
13 vehicles set forth in Tables 1 - 3, above, Respondent committed acts involving dishonesty, fraud
14 or deceit whereby another was injured by issuing electronic certificates of compliance for those
15 vehicles without performing bona fide inspections of the emission control devices and systems on
16 those vehicles, thereby depriving the People of the State of California of the protection afforded
17 by the Motor Vehicle Inspection Program.

18 **SEVENTH CAUSE FOR DISCIPLINE**

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

20 34. Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and
21 his smog check repair technician license to discipline under HSC section 44072.2, subdivision
22 (a), in that he violated the following sections of the HSC with respect to the vehicles set forth in
23 Tables 1 -3, above:

24 a. Section 44012: Respondent failed to ensure that the emission control tests were
25 performed on those vehicles in accordance with procedures prescribed by the department.

26 b. Section 44032: Respondent failed to perform tests of the emission control devices
27 and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles
28 had been clean plugged.

1 c. Section 44059; Respondent willfully made false entries for the electronic certificates
2 of compliance by certifying that those vehicles had been inspected as required when, in fact, they
3 had not.

4 EIGHTH CAUSE FOR DISCIPLINE

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

6 35. Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and
7 his smog check/repair technician license to discipline under HSC section 44072.2, subdivision
8 (c), in that he violated the following sections of the CCR, title 16, with respect to the vehicles set
9 forth in Tables 1 -3, above:

10 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
11 electronic certificates of compliance without performing bona fide inspections of the emission
12 control devices and systems on those vehicles as required by HSC section 44012.

13 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test those
14 vehicles in accordance with HSC section 44012.

15 c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS
16 for the electronic certificates of compliance by entering vehicle emission control information for
17 vehicles other than the vehicles being certified.

18 d. Section 3340.42: Respondent failed to conduct the required smog tests and
19 inspections on those vehicles in accordance with the Bureau's specifications.

20 NINTH CAUSE FOR DISCIPLINE

21 (Dishonesty, Fraud or Deceit)

22 36. Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and
23 his smog check repair technician license to discipline under HSC section 44072.2, subdivision
24 (d), in that he committed acts involving dishonesty, fraud or deceit whereby another was injured
25 by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 -3, above,
26 without performing bona fide inspections of the emission control devices and systems on those
27 vehicles, thereby depriving the People of the State of California of the protection afforded by the
28 Motor Vehicle Inspection Program.

1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
5 280573, issued to Fadi Jamil Jweinat, dba Five Star Smog Center;

6 2. Revoking or suspending Smog Check Station License Number RC 280573, issued to
7 Fadi Jamil Jweinat, dba Five Star Smog Center;

8 3. Revoking or suspending Smog Check Inspector License No. EO 634488, issued to
9 Fadi Jamil Jweinat;

10 4. Revoking or suspending Smog Check Repair Technician License No. EI 634488,
11 issued to Fadi Jamil Jweinat;

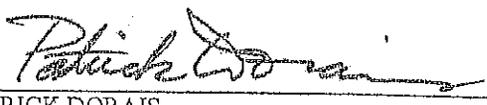
12 5. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
13 Automotive Repair Act in the name of Fadi Jamil Jweinat pursuant to section 9889.9 of the
14 Business and Professions Code;

15 6. Revoking or suspending any and all licenses issued under the Motor Vehicle
16 Inspection Program in the name of Fadi Jamil Jweinat pursuant to section 44072.8 of the Health
17 and Safety Code;

18 7. Ordering Fadi Jamil Jweinat to pay the Bureau of Automotive Repair the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3;

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

22
23 DATED: April 6, 2016


24 PATRICK DORAIS
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant

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