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2 LINDA K. SCHNEIDER  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation and Petition to  
12 Revoke Probation Against:  
13 **SCOTT ALAN MILLER**  
14 **8373 A Summerdale Road**  
15 **San Diego, CA 92126**  
16 **Advanced Emission Specialist Technician**  
17 **License No. EA 145097**  
18 Respondent.

Case No. 79/13-58  
**ACCUSATION & PETITION**  
**TO REVOKE PROBATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Complainant John Wallauch brings this Accusation and Petition to Revoke Probation  
20 solely in his official capacity as the Chief of the Bureau of Automotive Repair (Bureau),  
21 Department of Consumer Affairs (Department).

22 **LICENSE INFORMATION**

23 2. On a date uncertain in 2002, the Bureau issued Advanced Emission Specialist  
24 Technician License Number EA 145097 (technician license) to Scott Alan Miller (Respondent).  
25 The technician license was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on December 31, 2013, unless renewed.

1 **PRIOR DISCIPLINARY ACTION**

2 3. Pursuant to the Decision and Stipulated Settlement and Disciplinary Order as to  
3 Respondent Scott Alan Miller and Accusation No. 79/11-30, attached hereto as Exhibit "A" and  
4 incorporated herein by reference, the Director of the Department revoked Respondent's  
5 technician license, effective November 10, 2011. However, the revocation was stayed and  
6 Respondent was placed on probation for five years with certain terms.

7 **JURISDICTION**

8 4. This Petition to Revoke Probation is brought before the Director of the Department  
9 for the Bureau, pursuant to Term 7 of the Decision and Order in Case No. 79/11-30, referenced in  
10 paragraph 3, above, which states:

11 **Term 7 - Violation of Probation.** Should the Director of Consumer Affairs determine that  
12 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
13 after giving notice and opportunity to be heard permanently revoke the license

14 5. This Accusation is brought before the Director under the authority of the following  
15 laws. All section references are to the Business and Professions Code (Code) and Health and  
16 Safety Code (H&S Code).

17 6. Section 118(b) of the Code states:

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

26 7. H&S Code section 44002 provides, in pertinent part, that the Director has all the  
27 powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle  
28 Inspection Program.

8. H&S Code section 44072.6 provides, in pertinent part, that the expiration or  
suspension of a license by operation of law, or by order or decision of the Director, or a court of

1 law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to  
2 proceed with disciplinary action.

### 3 STATUTORY PROVISIONS

4 9. H&S Code section 44012 states, in pertinent part:

5 The test at the smog check stations shall be performed in accordance with  
6 procedures prescribed by the department and may require loaded mode dynamometer  
7 testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard  
8 diagnostic system, or other appropriate test procedures as determined by the  
9 department in consultation with the state board. The department shall implement  
10 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or  
11 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no  
12 earlier than January 1, 2013. However, the department, in consultation with the state  
13 board, may prescribe alternative test procedures that include loaded mode  
14 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems  
15 that the department and the state board determine exhibit operational problems. The  
16 department shall ensure, as appropriate to the test method, the following:

17 (a) Emission control systems required by state and federal law are  
18 reducing excess emissions in accordance with the standards adopted pursuant to  
19 subdivisions (a) and (c) of Section 44013.

20 ....

21 (f) A visual or functional check is made of emission control devices  
22 specified by the department, including the catalytic converter in those instances in  
23 which the department determines it to be necessary to meet the findings of Section  
24 44001. The visual or functional check shall be performed in accordance with  
25 procedures prescribed by the department.

26 10. H&S Code section 44032 states, in pertinent part:

27 No person shall perform, for compensation, test or repairs of emission  
28 control devices or systems of motor vehicles required by this chapter unless the  
person performing the test or repair is a qualified smog check technician and the test  
or repair is performed at a licensed smog check station. Qualified technician shall  
perform tests of emission control devices and systems in accordance with Section  
44012.

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

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

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

4 . . . .

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

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

### 9 REGULATORY PROVISIONS

10 12. California Code of Regulations, Title 16 (Regulations), section 3340.24, subdivision  
11 (c) provides that the Bureau may suspend or revoke the license of or pursue other legal action  
12 against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of  
13 compliance or a certificate of noncompliance.

14 13. Regulations, section 3340.30, states:

15 A licensed smog check inspector and/or repair technician shall comply  
16 with the following requirements at all times while licensed:

17 (a) Inspect, test and repair vehicles, as applicable, in accordance with  
18 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety  
19 Code, and section 3340.42 of this article.

20 . . . .

21 14. Regulations, section 3340.42, states:

22 With the exception of diesel-powered vehicles addressed in subsection (f)  
23 of this section, the following emissions test methods and standards apply to all  
24 vehicles:

25 . . . .

26 (2) A functional inspection of the vehicle's emission control systems.  
27 During the functional inspection, the technician shall conduct, as applicable, the  
28 following tests and verifications of the vehicle:

(A) proper operation of the exhaust gas recirculation (EGR) system,

(B) a check of the gasoline filler cap's integrity,

(C) proper setting of ignition timing,

(D) a low pressure check of the fuel evaporative control system,

1 (E) proper operation of the malfunction indicator light (MIL) or "Check  
Engine Light," and

2 (F) an on-board diagnostics (OBD) systems test.

3 (3) A liquid leak inspection of the vehicle's fuel storage and delivery  
4 systems.

5 (4) An inspection of the vehicle's tailpipe and crankcase for the  
emissions of smoke.

6 ....

### 7 COST RECOVERY

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

### 12 SEPTEMBER 14, 2012 UNDERCOVER OPERATION

13 16. On September 14, 2012, a Bureau undercover operator drove a Bureau documented  
14 1992 Nissan Maxima to Escondido Test Only, where Respondent was working, and requested a  
15 smog inspection. The ignition timing of the Maxima had been adjusted beyond specifications,  
16 causing the vehicle to be incapable of passing a properly performed smog inspection. After the  
17 smog inspection was completed the operator paid the facility \$68.00 and received a copy of  
18 Invoice No. RO50983 and a Vehicle Inspection Report (VIR). The VIR indicates that the smog  
19 inspection was performed by Respondent resulting in the issuance of electronic Certificate of  
20 Compliance No. XL335837, certifying that the Maxima had been tested and inspected and that it  
21 was in compliance with applicable laws and regulations when, in fact, the vehicle could not have  
22 passed the functional portion of the smog inspection as the ignition timing had been adjusted  
23 beyond specification.

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1 committed acts involving dishonesty, fraud, or deceit whereby another was injured by issuing  
2 electronic Certificate of Compliance No. XL335837 for the Maxima without performing a bona  
3 fide inspection of the emission control devices and systems, thereby depriving the People of the  
4 State of California of the protection afforded by the Motor Vehicle Inspection Program.

5 **PETITION TO REVOKE PROBATION**

6 **CAUSE TO REVOKE PROBATION**

7 **(Failure to Obey All Laws)**

8 20. At all times after the effective date of Respondent's probation, Probation Term No. 2  
9 stated as follows:

10 **Term 2** – Obey all laws: Respondent shall comply with all statutes, regulations and rules  
11 governing automotive inspections, estimates and repairs.

12 21. Respondent's probation is subject to revocation because he failed to comply with  
13 Probation Term No. 2 in that he has failed to obey all laws since November 10, 2011, as more  
14 fully set forth in paragraphs 16 through 19, above.

15 **OTHER MATTERS**

16 22. Pursuant to H&S Code section 44072.8, if Advanced Emission Specialist Technician  
17 License Number EA 145097, issued to Scott Alan Miller, is revoked or suspended, any additional  
18 license issued under this chapter in the name of said licensee may be likewise revoked or  
19 suspended by the director.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
22 Accusation and Petition to Revoke Probation, and that following the hearing, the Director of  
23 Consumer Affairs issue a decision:

24 1. Vacating the stay and reimposing the order of revocation of Advanced Emission  
25 Specialist Technician License Number EA 145097, issued to Scott Alan Miller;

26 2. Revoking or suspending Advanced Emission Specialist Technician License Number  
27 EA 145097, issued to Scott Alan Miller;

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- 3. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Scott Alan Miller;
- 4. Ordering Scott Alan Miller to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 5. Taking such other and further action as deemed necessary and proper.

DATED: March 15-2013

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

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70691566.doc

# **Exhibit A**

**Decision and Order**

**Bureau of Automotive Repair Case No. 79/11-30**

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

In the Matter of the Accusation Against:

**SERVICE ISLAND INC.**  
dba **ESCONDIDO TEST ONLY**  
**GHADA K. ABUAMOUNEH**  
aka **GHADA WALID ABUAMOUNEH, President**  
615 W. El Norte Parkway, #320  
Escondido, CA 92026

Automotive Repair Dealer Registration  
No. ARD 233965  
Smog Check, Test Only, Station License  
No. TC 233965

**SCOTT ALAN MILLER**  
8373-A Summerdale Road  
San Diego, CA 92126  
Advanced Emission Specialist Technician  
License No. EA 145097

**MOHAMAD WALID ABUAMOUNEH**  
P. O. Box 461287  
Escondido, CA 92046  
Advanced Emission Specialist Technician  
License No. EA 152453

Respondents.

Case No. 79/11-30

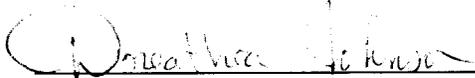
OAH No. 2010110588

**DECISION**

The attached Stipulated Settlement and Disciplinary Order as to Respondent Scott Alan Miller is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Scott Alan Miller, Advanced Emission Specialist Technician License No. EA 145097.

This Decision shall become effective 11/10/11.

DATED: October 5, 2011

  
\_\_\_\_\_  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 G. MICHAEL GERMAN  
Deputy Attorney General  
4 State Bar No. 103312  
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6 San Diego, CA 92186-5266  
Telephone: (619) 645-2617  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **SERVICE ISLAND INC., dba ESCONDIDO TEST**  
13 **ONLY; GHADA K. ABUAMOUNEH, aka**  
14 **GHADA WALID ABUAMOUNEH, PRESIDENT**  
15 **615 W. El Norte Parkway, #320**  
16 **Escondido, CA 92026**  
17 **Automotive Repair Dealer Reg. No. ARD 233965**  
18 **Smog Check, Test Only, Station License No.**  
19 **TC233965;**

20 **SCOTT ALAN MILLER**  
21 **8373-A Summerdale Road**  
22 **San Diego, CA 92126**  
23 **Advanced Emission Specialist Technician No.**  
24 **EA145097;**

and

25 **MOHAMAD WALID ABUAMOUNEH**  
26 **P.O. Box 461287**  
27 **Escondido, CA 92046**  
28 **Advanced Emission Specialist Technician No.**  
**EA152453,**

Respondents.

Case No. 79/11-30

OAH No. 2010110588

**STIPULATED SETTLEMENT**  
**AND DISCIPLINARY ORDER AS**  
**TO RESPONDENT SCOTT ALAN**  
**MILLER**

24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
25 entitled proceedings that the following matters are true:

26 PARTIES

27 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair  
28 (Bureau). She brought this action solely in her official capacity and is represented in this matter

1 by Kamala D. Harris, Attorney General of the State of California, by G. Michael German, Deputy  
2 Attorney General.

3 2. Respondent Scott Alan Miller is represented in this proceeding by attorney Michael  
4 B. Levin, whose address is: 3727 Camino del Rio South, Suite 200, San Diego, CA 92108.

5 3. In 2002 the Bureau issued Advanced Emission Specialist Technician License No.  
6 EA145097 to Respondent. The Advanced Emission Specialist Technician License was in full  
7 force and effect at all times relevant to the charges brought in Accusation No. 79/11-30 and will  
8 expire on December 31, 2011, unless renewed.

9 JURISDICTION

10 4. Accusation No. 79/11-30 was filed before the Director of Consumer Affairs  
11 (Director), for the Bureau, and is currently pending against Respondent. The Accusation and all  
12 other statutorily required documents were properly served on Respondent on October 29, 2010.  
13 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
14 No. 79/11-30 is attached as exhibit A.

15 ADVISEMENT AND WAIVERS

16 5. Respondent has carefully read, fully discussed with counsel, and understands the  
17 charges and allegations in Accusation No. 79/11-30. Respondent has also carefully read, fully  
18 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
19 Order.

20 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
22 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
24 documents; the right to reconsideration and court review of an adverse decision; and all other  
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
27 every right set forth above.



1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
3 writing executed by an authorized representative of each of the parties.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
5 the Director may, without further notice or formal proceeding, issue and enter the following  
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No.  
9 EA145907 issued to Scott Alan Miller is revoked. However, the revocation is stayed and  
10 Respondent is placed on probation for five years on the following terms and conditions.

11 1. **Actual Suspension.** Advanced Emission Specialist Technician License No.  
12 EA145907 issued in 2002 to Scott Alan Miller is suspended for 30 consecutive business days  
13 beginning on the effective date of the decision.

14 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
15 automotive inspections, estimates and repairs.

16 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning  
17 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be  
18 conspicuously displayed in a location open to and frequented by customers and shall remain  
19 posted during the entire period of actual suspension.

20 4. **Reporting.** Respondent must report in person or in writing as prescribed by the  
21 Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each  
22 quarter, on the methods used and success achieved in maintaining compliance with the terms and  
23 conditions of probation.

24 5. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
25 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

26 6. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
27 probation, the Director shall have continuing jurisdiction over this matter until the final decision  
28 on the accusation, and the period of probation shall be extended until such decision.

1           7.     **Violation of Probation.** Should the Director determine that Respondent has failed to  
2 comply with the terms and conditions of probation, the Department may, after giving notice and  
3 opportunity to be heard, temporarily or permanently invalidate Respondent's license no.  
4 EA145097.

5           8.     **Continuing Education Courses.** During the period of probation, Respondent shall  
6 attend and successfully complete the Bureau Advanced Clean Air Car Course. Said course shall  
7 be completed and proof of completion submitted to the Bureau within six months of the effective  
8 date of this decision and order. If proof of completion of the course is not furnished to the Bureau  
9 within the six month period, Respondent's license shall be immediately suspended until such  
10 proof is received.

11          9.     **Restrictions.** During the period of probation, Respondent shall not perform any form  
12 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,  
13 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to  
14 properly perform such work, and BAR has been given 10 days notice of the availability of the  
15 equipment for inspection by a BAR representative.

16          10.    **Cost Recovery.** Payment to the Bureau of 50% of the Bureau's \$15,500.00 total  
17 enforcement costs, jointly and severally with co-Respondent Mohamad Walid Abuamounh, in  
18 the amount of \$7,750.00, in certified funds no later than 30 months before Respondent's  
19 probation terminates. Failure to complete payment of cost recovery within this time frame shall  
20 constitute a violation of probation which may subject Respondent's license to outright revocation;  
21 however, the Director or the Director's Bureau designee may elect to continue probation until  
22 such time as reimbursement of the entire cost recovery amount has been made to the Bureau.  
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will  
4 have on my Advanced Emission Specialist Technician License. I enter into this Stipulated  
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
6 bound by the Decision and Order of the Director of Consumer Affairs.

7  
8 DATED: 7.8.11

  
9 SCOTT ALAN MILLER  
Respondent

10 I have read and fully discussed with Respondent Scott Alan Miller the terms and conditions  
11 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
12 its form and content.

13 DATED: 7/8/11

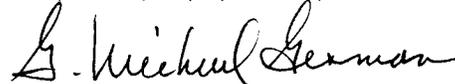
  
14 MICHAEL B. LEVIN  
Attorney for Respondent

15  
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Director of Consumer Affairs.

19  
20 DATED: July 8, 2011

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
23 G. MICHAEL GERMAN  
24 Deputy Attorney General  
25 Attorneys for Complainant

26 SD2010701836

**Exhibit A**

**Accusation No. 79/11-30**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 79/11-30

14 **SERVICE ISLAND, INC.,**  
15 **dba ESCONDIDO TEST ONLY**  
16 **GHADA K. ABUAMOUNEH,**  
17 **a.k.a. GHADA WALID ABUAMOUNEH, PRES.**  
18 **615 W. El Norte Parkway, #320**  
19 **Escondido, CA 92026**  
20 **Automotive Repair Dealer Reg. No. ARD 233965**  
21 **Smog Check, Test Only, Station License No. TC**  
22 **233965,**

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

**(Smog Check)**

23 **SCOTT ALAN MILLER**  
24 **8373 A Summerdale Road**  
25 **San Diego, CA 92126**  
26 **Advanced Emission Specialist Technician License**  
27 **No. EA 145097,**

28 **and**

29 **MOHAMAD WALID ABUAMOUNEH**  
30 **P.O. Box 461287**  
31 **Escondido, CA 92046**  
32 **Advanced Emission Specialist Technician License**  
33 **No. EA 152453**

Respondents.

///

///

1 Complainant alleges:

2 **PARTIES**

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

5 **Service Island dba Escondido Test Only**

6 2. On or about February 9, 2005, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 233965 (hereinafter "registration") to  
8 Service Island, Inc. ("Respondent Service Island"), doing business as Escondido Test Only, with  
9 Ghada K. Abuamouneh, also known as Ghada Walid Abuamouneh, as president. Respondent's  
10 registration was in full force and effect at all times relevant to the charges brought herein and will  
11 expire on May 31, 2011, unless renewed.

12 3. On or about March 3, 2005, the Director issued Smog Check, Test Only, Station  
13 License Number TC 233965 (hereinafter "smog check station license") to Respondent Service  
14 Island. Respondent's smog check station license was in full force and effect at all times relevant  
15 to the charges brought herein and will expire on May 31, 2011, unless renewed.

16 **Scott Alan Miller**

17 4. In or about 2002, the Director issued Advanced Emission Specialist Technician  
18 License Number EA 145097 (hereinafter "technician license") to Scott Alan Miller ("Respondent  
19 Miller" or "Miller"). Respondent's technician license was in full force and effect at all times  
20 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

21 **Mohamad Walid Abuamouneh**

22 5. In or about 2005, the Director issued Advanced Emission Specialist Technician  
23 License Number EA 152453 (hereinafter "technician license") to Mohamad Walid Abuamouneh  
24 ("Respondent Abuamouneh" or "Abuamouneh"). Respondent's technician license was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on January 31,  
26 2012, unless renewed.

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## JURISDICTION

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

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

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

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

## STATUTORY PROVISIONS

15  
16       10. Bus. & Prof. Code section 9884.7 states, in pertinent part:

17               (a) The director, where the automotive repair dealer cannot show there  
18 was a bona fide error, may deny, suspend, revoke, or place on probation the  
19 registration of an automotive repair dealer for any of the following acts or omissions  
20 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.

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

23               .....

24               (3) Failing or refusing to give to a customer a copy of any document  
requiring his or her signature, as soon as the customer signs the document.

25               (4) Any other conduct which constitutes fraud.

26               .....

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

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2 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
3 place on probation the registration for all places of business operated in this state by  
4 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
5 engaged in a course of repeated and willful violations of this chapter, or regulations  
6 adopted pursuant to it.

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13 11. Bus. & Prof. Code section 9884.8 states:

14 All work done by an automotive repair dealer, including all warranty  
15 work, shall be recorded on an invoice and shall describe all service work done and  
16 parts supplied. Service work and parts shall be listed separately on the invoice, which  
17 shall also state separately the subtotal prices for service work and for parts, not  
18 including sales tax, and shall state separately the sales tax, if any, applicable to each.  
19 If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state  
20 that fact. If a part of a component system is composed of new and used, rebuilt or  
21 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include  
22 a statement indicating whether any crash parts are original equipment manufacturer  
23 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy  
24 of the invoice shall be given to the customer and one copy shall be retained by the  
25 automotive repair dealer.

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12. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

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

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

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. 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.

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

15. Health & Saf. Code section 44072.10 states, in pertinent part:

....

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

....

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

16. Health & Saf. 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.

**COST RECOVERY**

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

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1 completed, the operator paid Sam \$69. Sam wrote an "S" on the second page of the vehicle  
2 inspection report ("VIR") at the technician signature block and provided the operator with copies  
3 of the VIR and an invoice. The operator left the facility at approximately 1046 hours. That same  
4 day, electronic smog Certificate of Compliance No. WD833288C was issued for the vehicle.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 22. Respondent Service Island's registration is subject to disciplinary action pursuant to  
8 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
9 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
10 misleading, as follows: Respondent Service Island's technician, Respondent Miller, certified that  
11 the Bureau's 1991 Toyota pickup truck had passed the functional ignition timing check, the visual  
12 fuel cap check, the functional fuel cap integrity test, and the functional LPFET check. In fact,  
13 Miller failed to perform those tests on the vehicle.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Failure to Provide Customer with Copy of Signed Document)**

16 23. Respondent Service Island's registration is subject to disciplinary action pursuant to  
17 Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Sam, failed  
18 to provide the operator with a copy of the estimate as soon as the operator signed the document.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 24. Respondent Service Island's registration is subject to disciplinary action pursuant to  
22 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
23 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1991  
24 Toyota pickup truck without performing a bona fide inspection of the emission control devices  
25 and systems on the vehicle, thereby depriving the People of the State of California of the  
26 protection afforded by the Motor Vehicle Inspection Program.

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1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 25. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
5 to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
7 performed on the Bureau's 1991 Toyota pickup truck in accordance with procedures prescribed  
8 by the department.

9 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 1991 Toyota pickup truck without properly testing and inspecting the vehicle to  
11 determine if it was in compliance with Health & Saf. Code section 44012.

12 **FIFTH CAUSE FOR DISCIPLINE**

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

15 26. Respondent Service Island's smog check station license is subject to disciplinary  
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
17 to comply with provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.24, subdivision (c):** Respondent Service Island falsely or fraudulently  
19 issued an electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup truck.

20 b. **Section 3340.35, subdivision (c):** Respondent Service Island issued an electronic  
21 smog certificate of compliance for the Bureau's 1991 Toyota pickup truck even though the  
22 vehicle had not been inspected in accordance with section 3340.42.

23 c. **Section 3340.41, subdivision (c):** Respondent Service Island authorized or permitted  
24 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
25 Bureau's 1991 Toyota pickup truck.

26 d. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
27 conducted on the Bureau's 1991 Toyota pickup truck in accordance with the Bureau's  
28 specifications.





1 1214 hours. That same day, electronic smog Certificate of Compliance No. WD833294C was  
2 issued for the vehicle.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 33. Respondent Service Island's registration is subject to disciplinary action pursuant to  
6 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
7 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
8 misleading, as follows: Respondent Service Island's technician, Respondent Miller, certified that  
9 the Bureau's 1989 Chevrolet Corsica had passed the visual fuel cap check, the functional fuel cap  
10 integrity test, and the functional LPFET check. In fact, Miller failed to perform those tests on the  
11 vehicle.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Provide Customer with Copy of Signed Document)**

14 34. Respondent Service Island's registration is subject to disciplinary action pursuant to  
15 Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Sam, failed  
16 to provide the operator with a copy of the estimate as soon as the operator signed the document.

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 35. Respondent Service Island's registration is subject to disciplinary action pursuant to  
20 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
21 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1989  
22 Chevrolet Corsica without performing a bona fide inspection of the emission control devices and  
23 systems on the vehicle, thereby depriving the People of the State of California of the protection  
24 afforded by the Motor Vehicle Inspection Program.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
5 to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
7 performed on the Bureau's 1989 Chevrolet Corsica in accordance with procedures prescribed by  
8 the department.

9 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 1989 Chevrolet Corsica without properly testing and inspecting the vehicle to  
11 determine if it was in compliance with Health & Saf. Code section 44012.

12 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

15 37. Respondent Service Island's smog check station license is subject to disciplinary  
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
17 to comply with provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.24, subdivision (c):** Respondent Service Island falsely or fraudulently  
19 issued an electronic smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica.

20 b. **Section 3340.35, subdivision (c):** Respondent Service Island issued an electronic  
21 smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica even though the vehicle  
22 had not been inspected in accordance with section 3340.42.

23 c. **Section 3340.41, subdivision (c):** Respondent Service Island authorized or permitted  
24 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
25 Bureau's 1989 Chevrolet Corsica.

26 d. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
27 conducted on the Bureau's 1989 Chevrolet Corsica in accordance with the Bureau's  
28 specifications.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 38. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
5 committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an  
6 electronic smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica without  
7 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
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 39. Respondent Miller's technician license is subject to disciplinary action pursuant to  
13 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
14 provisions of that Code in the following material respects:

- 15 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
16 Bureau's 1989 Chevrolet Corsica in accordance with procedures prescribed by the department.  
17 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
18 issuance of an electronic smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica.

19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

22 40. Respondent Miller's technician license is subject to disciplinary action pursuant to  
23 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
24 provisions of California Code of Regulations, title 16, as follows:

- 25 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
26 electronic smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica.

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1           b.    Section 3340.30, subdivision (a): Respondent failed to inspect and test the Bureau's  
2 1989 Chevrolet Corsica in accordance with Health & Saf. Code sections 44012 and 44035, and  
3 California Code of Regulations, title 16, section 3340.42.

4           c.    Section 3340.41, subdivision (c): Respondent knowingly entered into the EIS false  
5 information about the Bureau's 1989 Chevrolet Corsica.

6           d.    Section 3340.42: Respondent failed to conduct the required smog tests on the  
7 Bureau's 1989 Chevrolet Corsica in accordance with the Bureau's specifications.

8                                   **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

10          41.    Respondent Miller's technician license is subject to disciplinary action pursuant to  
11 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
12 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
13 compliance for the Bureau's 1989 Chevrolet Corsica without performing a bona fide inspection of  
14 the emission control devices and systems on the vehicle, thereby depriving the People of the State  
15 of California of the protection afforded by the Motor Vehicle Inspection Program.

16                                   **UNDERCOVER OPERATION #3: 1995 CHEVROLET LUMINA**

17          42.    Complainant incorporates by reference as though fully set forth herein the allegations  
18 contained in paragraphs 18 through 20 above.

19          43.    On October 24, 2009, at approximately 1342 hours, the operator involved in the first  
20 and second undercover operations took the Bureau's 1995 Chevrolet Lumina to Escondido Test  
21 Only and met with Sam. The operator requested a smog inspection on the Bureau-documented  
22 vehicle. Sam had the operator sign an estimate for the inspection, but did not provide him with a  
23 copy. The operator observed Respondent Miller perform the inspection on the vehicle. Miller  
24 did not conduct the required visual fuel cap check, the functional fuel cap integrity test, or the  
25 functional LPFET check on the vehicle. After the inspection was completed, the operator paid  
26 Sam \$50. Sam wrote an "S" on the second page of the VIR at the technician signature block and  
27 provided the operator with copies of the VIR and an invoice. The operator left the facility at

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1 approximately 1352 hours. That same day, electronic smog Certificate of Compliance No.  
2 WD880801C was issued for the vehicle.

3 **NINETEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 44. Respondent Service Island's registration is subject to disciplinary action pursuant to  
6 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
7 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
8 misleading, as follows: Respondent Service Island's technician, Respondent Miller, certified that  
9 the Bureau's 1995 Chevrolet Lumina had passed the visual fuel cap check, the functional fuel cap  
10 integrity test, and the functional LPFET check. In fact, Miller failed to perform those tests on the  
11 vehicle.

12 **TWENTIETH CAUSE FOR DISCIPLINE**

13 **(Failure to Provide Customer with Copy of Signed Document)**

14 45. Respondent Service Island's registration is subject to disciplinary action pursuant to  
15 Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Sam, failed  
16 to provide the operator with a copy of the estimate as soon as the operator signed the document.

17 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 46. Respondent Service Island's registration is subject to disciplinary action pursuant to  
20 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
21 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1995  
22 Chevrolet Lumina without performing a bona fide inspection of the emission control devices and  
23 systems on the vehicle, thereby depriving the People of the State of California of the protection  
24 afforded by the Motor Vehicle Inspection Program.

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1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

3 47. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
5 to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
7 performed on the Bureau's 1995 Chevrolet Lumina in accordance with procedures prescribed by  
8 the department.

9 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 1995 Chevrolet Lumina without properly testing and inspecting the vehicle to  
11 determine if it was in compliance with Health & Saf. Code section 44012.

12 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

15 48. Respondent Service Island's smog check station license is subject to disciplinary  
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
17 to comply with provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.24, subdivision (c):** Respondent Service Island falsely or fraudulently  
19 issued an electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Lumina.

20 b. **Section 3340.35, subdivision (c):** Respondent Service Island issued an electronic  
21 smog certificate of compliance for the Bureau's 1995 Chevrolet Lumina even though the vehicle  
22 had not been inspected in accordance with section 3340.42.

23 c. **Section 3340.41, subdivision (c):** Respondent Service Island authorized or permitted  
24 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
25 Bureau's 1995 Chevrolet Lumina.

26 d. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
27 conducted on the Bureau's 1995 Chevrolet Lumina in accordance with the Bureau's  
28 specifications.

1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

3 49. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
5 committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an  
6 electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Lumina without  
7 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
8 thereby depriving the People of the State of California of the protection afforded by the Motor  
9 Vehicle Inspection Program.

10 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

12 50. Respondent Miller's technician license is subject to disciplinary action pursuant to  
13 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
14 provisions of that Code in the following material respects:

15 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
16 Bureau's 1995 Chevrolet Lumina in accordance with procedures prescribed by the department.

17 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
18 issuance of an electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Lumina.

19 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

22 51. Respondent Miller's technician license is subject to disciplinary action pursuant to  
23 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
24 provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
26 electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Lumina.

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1           b.     Section 3340.30, subdivision (a): Respondent failed to inspect and test the Bureau's  
2 1995 Chevrolet Lumina in accordance with Health & Saf. Code sections 44012 and 44035, and  
3 California Code of Regulations, title 16, section 3340.42.

4           c.     Section 3340.41, subdivision (c): Respondent knowingly entered into the EIS false  
5 information about the Bureau's 1995 Chevrolet Lumina.

6           d.     Section 3340.42: Respondent failed to conduct the required smog tests on the  
7 Bureau's 1995 Chevrolet Lumina in accordance with the Bureau's specifications.

#### 8                                   TWENTY-SEVENTH CAUSE FOR DISCIPLINE

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

10           52.    Respondent Miller's technician license is subject to disciplinary action pursuant to  
11 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
12 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
13 compliance for the Bureau's 1995 Chevrolet Lumina without performing a bona fide inspection  
14 of the emission control devices and systems on the vehicle, thereby depriving the People of the  
15 State of California of the protection afforded by the Motor Vehicle Inspection Program.

#### 16                                   UNDERCOVER OPERATION #4: 1979 BUICK LE SABRE

17           53.    Complainant incorporates by reference as though fully set forth herein the allegations  
18 contained in paragraphs 18 through 20 above.

19           54.    On October 25, 2009, the operator involved in the first, second, and third undercover  
20 operations took the Bureau's 1979 Buick Le Sabre to Escondido Test Only and requested a smog  
21 inspection. The internal components of the carburetor on the Bureau-documented vehicle had  
22 been misadjusted, causing excessive tailpipe emissions. Respondent Abuamouneh had the  
23 operator sign an estimate for the inspection, but did not provide him with a copy. The operator  
24 observed Abuamouneh perform the inspection on the vehicle. Abuamouneh did not conduct the  
25 required functional fuel cap integrity test or the functional LPFET check on the vehicle. After the  
26 inspection was completed, the operator paid Abuamouneh \$49.90 and received copies of an  
27 invoice and VIR. The VIR indicated that the vehicle failed the inspection.

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1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 55. Respondent Service Island's registration is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
5 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
6 misleading, as follows: Respondent Service Island's technician, Respondent Abuamouneh,  
7 certified under penalty of perjury on the VIR that he performed the inspection on the Bureau's  
8 1979 Buick Le Sabre in accordance with all Bureau requirements. In fact, Respondent  
9 Abuamouneh failed to perform the required functional fuel cap integrity test and functional  
10 LPFET check on the vehicle.

11 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

12 **(Failure to Provide Customer with Copy of Signed Document)**

13 56. Respondent Service Island's registration is subject to disciplinary action pursuant to  
14 Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent Service Island's  
15 technician, Respondent Abuamouneh, failed to provide the operator with a copy of the estimate as  
16 soon as the operator signed the document.

17 **THIRTIETH CAUSE FOR DISCIPLINE**

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

19 57. Respondent Service Island's smog check station license is subject to disciplinary  
20 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
21 to comply with section 44012 of that Code in a material respect, as follows: Respondent failed to  
22 ensure that the emission control tests were performed on the Bureau's 1979 Buick Le Sabre in  
23 accordance with procedures prescribed by the department.

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1 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

4 58. Respondent Service Island's smog check station license is subject to disciplinary  
5 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
6 to comply with provisions of California Code of Regulations in the following material respects:

7 a. **Section 3340.41, subdivision (c):** Respondent Service Island authorized or permitted  
8 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
9 Bureau's 1979 Buick Le Sabre.

10 b. **Section 3340.42:** Respondent Service Island failed to ensure that the required smog  
11 tests were conducted on the Bureau's 1979 Buick Le Sabre in accordance with the Bureau's  
12 specifications.

13 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

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

15 59. Respondent Abuamouneh's technician license is subject to disciplinary action  
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
17 comply with section 44012 of that Code in a material respect, as follows: Respondent failed to  
18 perform the emission control tests on the Bureau's 1979 Buick Le Sabre in accordance with  
19 procedures prescribed by the department.

20 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

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

23 60. Respondent Abuamouneh's technician license is subject to disciplinary action  
24 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
25 comply with provisions of California Code of Regulations, title 16, as follows:

26 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
27 1979 Buick Le Sabre in accordance with Health & Saf. Code sections 44012 and 44035, and  
28 California Code of Regulations, title 16, section 3340.42.

1           b.     Section 3340.41, subdivision (c): Respondent knowingly entered into the EIS false  
2 information about the Bureau's 1979 Buick Le Sabre.

3           c.     Section 3340.42: Respondent failed to conduct the required smog tests on the  
4 Bureau's 1979 Buick Le Sabre in accordance with the Bureau's specifications.

5                             UNDERCOVER OPERATION #5: 1988 TOYOTA TERCEL

6           61.    On November 17, 2009, an undercover operator with the Bureau (hereinafter  
7 "operator") took the Bureau's 1988 Toyota Tercel to Escondido Test Only. The ignition timing  
8 on the Bureau-documented vehicle was not adjusted to manufacturer's specifications, the fuel cap  
9 was defective, the fuel evaporative upstream hose was disconnected from the charcoal canister,  
10 and the vacuum hose line to the vacuum sensor at the bi-metallic vacuum switching valve  
11 ("BVSV") was disconnected, causing excessive tailpipe emissions. The operator told the service  
12 manager, "Scott", she wanted a smog inspection on the vehicle at the facility's advertised price of  
13 \$38 and presented Scott with a *PennySaver* coupon for Escondido Test Only. Scott stated that it  
14 would cost \$38 for the inspection plus \$8 for the smog certificate. Scott asked the operator to go  
15 to Precision Tune Auto Care ("PTAC")'s office, which was located next door, and wait while the  
16 inspection was conducted. Scott did not provide the operator with a written estimate. The  
17 operator waited at PTAC. Later, Scott met with the operator at PTAC and told her that the  
18 vehicle failed the inspection. The operator authorized Scott to diagnose the smog check failure  
19 on the vehicle. Scott did not provide the operator with a written estimate for the diagnosis. The  
20 operator returned to Escondido Test Only and paid Respondent Miller \$38. Miller did not  
21 provide the operator with an invoice or a VIR. The operator told Miller that PTAC would be  
22 repairing the vehicle and that she wanted a free retest as advertised in PTAC's *PennySaver*  
23 advertisement. Scott returned to Escondido Test Only and asked the operator to wait at PTAC's  
24 office. Scott drove the vehicle into one of the service bays at PTAC. A short while later, Scott  
25 met with the operator at PTAC and told her that the vehicle needed a new catalytic converter at a  
26 cost of \$398 plus tax. The operator asked Scott if the vehicle needed a new catalytic converter to  
27 pass the smog check. Scott said, "Yes." The operator authorized Scott to proceed with the work.  
28 The operator left PTAC.



1 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
2 misleading, as follows:

3 a. Respondent Service Island's technician, Respondent Miller, certified that the Bureau's  
4 1988 Toyota Tercel had passed the functional ignition timing test and functional fuel cap integrity  
5 test during the initial smog inspection on the vehicle. In fact, the ignition timing was not adjusted  
6 to manufacturer's specifications and the fuel cap was defective.

7 b. Respondent Service Island's technician, Respondent Miller, certified that the Bureau's  
8 1988 Toyota Tercel had passed inspection and was in compliance with applicable laws and  
9 regulations. In fact, the ignition timing was not adjusted to manufacturer's specifications and the  
10 fuel cap was defective. As such, the vehicle would not pass the inspection required by Health &  
11 Saf. Code section 44012.

### 12 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

#### 13 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

14 66. Respondent Service Island's registration is subject to disciplinary action pursuant to  
15 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
16 provisions of that Code in the following material respects:

17 a. **Section 9884.8:** Respondent recorded on Invoice No. RO36838 an \$8.25 charge for  
18 the smog certificate on the Bureau's 1988 Toyota Tercel, but did not describe the service work  
19 performed on the vehicle, i.e., the smog inspection.

20 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a  
21 written estimate for parts and/or labor necessary for the smog inspection on the Bureau's 1988  
22 Toyota Tercel.

### 23 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

#### 24 **(Fraud)**

25 67. Respondent Service Island's registration is subject to disciplinary action pursuant to  
26 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
27 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1988  
28 Toyota Tercel without performing a bona fide inspection of the emission control devices and

1 systems on the vehicle, thereby depriving the People of the State of California of the protection  
2 afforded by the Motor Vehicle Inspection Program.

3 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

5 68. Respondent Service Island's smog check station license is subject to disciplinary  
6 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
7 to comply with the following sections of that Code:

8 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
9 performed on the Bureau's 1988 Toyota Tercel in accordance with procedures prescribed by the  
10 department.

11 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
12 the Bureau's 1988 Toyota Tercel without properly testing and inspecting the vehicle to determine  
13 if it was in compliance with Health & Saf. Code section 44012.

14 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

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

17 69. Respondent Service Island's smog check station license is subject to disciplinary  
18 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
19 to comply with provisions of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent Service Island falsely or fraudulently  
21 issued an electronic smog certificate of compliance for the Bureau's 1988 Toyota Tercel.

22 b. **Section 3340.35, subdivision (c):** Respondent Service Island issued an electronic  
23 smog certificate of compliance for the Bureau's 1988 Toyota Tercel even though the vehicle had  
24 not been inspected in accordance with section 3340.42.

25 c. **Section 3340.41, subdivision (a):** Respondent Service Island failed to give the  
26 operator a copy of the VIR for the initial smog inspection on the Bureau's 1988 Toyota Tercel.

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1 d. **Section 3340.41, subdivision (c)**: Respondent Service Island authorized or permitted  
2 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
3 Bureau's 1988 Toyota Tercel.

4 e. **Section 3340.42**: Respondent failed to ensure that the required smog tests were  
5 conducted on the Bureau's 1988 Toyota Tercel in accordance with the Bureau's specifications.

6 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

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

8 70. Respondent Service Island's smog check station license is subject to disciplinary  
9 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
10 committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an  
11 electronic smog certificate of compliance for the Bureau's 1988 Toyota Tercel without  
12 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
13 thereby depriving the People of the State of California of the protection afforded by the Motor  
14 Vehicle Inspection Program.

15 **FORTIETH CAUSE FOR DISCIPLINE**

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

17 71. Respondent Miller's technician license is subject to disciplinary action pursuant to  
18 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
19 provisions of that Code in the following material respects:

20 a. **Section 44012**: Respondent failed to perform the emission control tests on the  
21 Bureau's 1988 Toyota Tercel in accordance with procedures prescribed by the department.

22 b. **Section 44059**: Respondent willfully made false entries in the EIS, resulting in the  
23 issuance of an electronic smog certificate of compliance for the Bureau's 1988 Toyota Tercel.

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1 **FORTY-FIRST CAUSE FOR DISCIPLINE**

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

4 72. Respondent Miller's technician license is subject to disciplinary action pursuant to  
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
8 electronic smog certificate of compliance for the Bureau's 1988 Toyota Tercel.

9 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
10 1988 Toyota Tercel in accordance with Health & Saf. Code sections 44012 and 44035, and  
11 California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered into the EIS false  
13 information about the Bureau's 1988 Toyota Tercel.

14 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
15 Bureau's 1988 Toyota Tercel in accordance with the Bureau's specifications.

16 **FORTY-SECOND CAUSE FOR DISCIPLINE**

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

18 73. Respondent Miller's technician license is subject to disciplinary action pursuant to  
19 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
20 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
21 compliance for the Bureau's 1988 Toyota Tercel without performing a bona fide inspection of the  
22 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
23 California of the protection afforded by the Motor Vehicle Inspection Program.

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**UNDERCOVER OPERATION #6: 1989 HONDA ACCORD**

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2       74. On November 18, 2009, the operator involved in the fifth undercover operation took  
3 the Bureau's 1989 Honda Accord to Escondido Test Only. The ignition timing on the Bureau-  
4 documented vehicle was not adjusted to manufacturer's specifications, the vacuum hose to the  
5 exhaust gas recirculation ("EGR") valve was disconnected, causing excessive tailpipe emissions,  
6 and the fuel cap was defective. The operator told the service manager, Scott, that she wanted a  
7 smog inspection on the vehicle at the facility's advertised price of \$38. Scott took the keys to the  
8 vehicle along with the DMV registration billing notice, but did not provide the operator with an  
9 estimate for the smog inspection. After the inspection was completed, the technician informed  
10 the operator that the vehicle failed and that she needed to get it checked out by a mechanic. Later,  
11 the operator met with Scott and told him that the vehicle failed the inspection. Scott asked the  
12 operator if she had one of his coupons. The operator told Scott that she had a *PennySaver* coupon  
13 from PTAC for a "guaranteed fixed smog." Scott obtained the VIR for the failed inspection, but  
14 did not provide the operator with a copy, and went to PTAC. The operator paid the technician at  
15 Escondido Test Only \$46 in cash for the inspection. The technician informed the operator that  
16 the \$46 included \$38 for the inspection and \$8.00 for the smog certificate. The operator went to  
17 PTAC and observed that the vehicle was already up on a hoist and that an employee was working  
18 on the vehicle. A few minutes later, Scott told the operator that the vehicle "needed the same as  
19 the other car"; i.e., the replacement of the catalytic converter. The operator asked Scott if that  
20 was all the vehicle needed to pass the smog inspection and Scott replied, "Yes, I guarantee it."  
21 Scott told the operator that he would show her the original catalytic converter on the vehicle  
22 following the repairs. Scott did not provide the operator with a written estimate for the diagnosis  
23 or the repairs. The operator left the facility.

24       75. At approximately 1300 hours, Scott called the operator and informed her that the  
25 vehicle was ready. About ten minutes later, the operator went to PTAC, paid Scott \$464 in cash,  
26 and received copies of an invoice and a VIR. The VIR indicated that the vehicle passed the  
27 inspection, resulting in the issuance of electronic smog Certificate of Compliance No.  
28 WF161968C, and that Respondent Abuamounch had performed the inspection. The operator

1 asked Scott for the old catalytic converter on the vehicle, which Scott provided. The operator  
2 went to Escondido Test Only and asked Respondent Miller for a receipt on the vehicle. Miller  
3 gave the operator a copy of a final invoice.

4 76. Information from the Bureau's VID indicated that Miller performed the initial smog  
5 test on the vehicle. The vehicle had failed the emissions test, but passed the visual and functional  
6 tests, including the functional ignition timing test and functional fuel cap integrity test.

7 77. On and between November 23, 2009, and December 2, 2009, the Bureau inspected  
8 the vehicle and found that the hose to the EGR valve had been re-connected; however, the  
9 ignition timing still was not adjusted to manufacturer's specifications and the defective fuel cap  
10 was still in place on the vehicle. The Bureau also found that PTAC had performed an  
11 unnecessary repair on the vehicle; i.e., the replacement of the catalytic converter.

### 12 **FORTY-THIRD CAUSE FOR DISCIPLINE**

#### 13 **(Untrue or Misleading Statements)**

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

18 a. Respondent Service Island's technician, Respondent Miller, certified that the Bureau's  
19 1989 Honda Accord had passed the functional ignition timing test and functional fuel cap  
20 integrity test. In fact, the ignition timing was not adjusted to manufacturer's specifications and  
21 the fuel cap was defective.

22 b. Respondent Service Island's technician, Respondent Abuamounch, certified that the  
23 Bureau's 1989 Honda Accord had passed inspection and was in compliance with applicable laws  
24 and regulations. In fact, the ignition timing was not adjusted to manufacturer's specifications and  
25 the fuel cap was defective. As such, the vehicle would not pass the inspection required by Health  
26 & Saf. Code section 44012. Further, Abuamounch certified that the LPFET functional check was  
27 not applicable to the Bureau's 1989 Honda Accord when, in fact, that test was required on the  
28 vehicle.

1 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

3 79. Respondent Service Island's registration is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
5 section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent failed  
6 to provide the operator with a written estimate for parts and/or labor necessary for the smog  
7 inspection on the Bureau's 1989 Honda Accord.

8 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 80. Respondent Service Island's registration is subject to disciplinary action pursuant to  
11 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
12 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1989  
13 Honda Accord without performing a bona fide inspection of the emission control devices and  
14 systems on the vehicle, thereby depriving the People of the State of California of the protection  
15 afforded by the Motor Vehicle Inspection Program.

16 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

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

18 81. Respondent Service Island's smog check station license is subject to disciplinary  
19 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
20 to comply with the following sections of that Code:

21 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
22 performed on the Bureau's 1989 Honda Accord in accordance with procedures prescribed by the  
23 department.

24 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
25 the Bureau's 1989 Honda Accord without properly testing and inspecting the vehicle to determine  
26 if it was in compliance with Health & Saf. Code section 44012.

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1 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

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

4 82. Respondent Service Island's smog check station license is subject to disciplinary  
5 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
6 to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Service Island falsely or fraudulently  
8 issued an electronic smog certificate of compliance for the Bureau's 1989 Honda Accord.

9 b. **Section 3340.35, subdivision (c)**: Respondent Service Island issued an electronic  
10 smog certificate of compliance for the Bureau's 1989 Honda Accord even though the vehicle had  
11 not been inspected in accordance with section 3340.42.

12 c. **Section 3340.41, subdivision (a)**: Respondent Service Island failed to give the  
13 operator a copy of the VIR for the initial smog inspection on the Bureau's 1989 Honda Accord.

14 d. **Section 3340.41, subdivision (c)**: Respondent Service Island authorized or permitted  
15 its technicians, Respondents Miller and Abuamounch, to knowingly enter into the EIS false  
16 information about the Bureau's 1989 Honda Accord, as set forth in paragraph 78 above.

17 e. **Section 3340.42**: Respondent failed to ensure that the required smog tests were  
18 conducted on the Bureau's 1989 Honda Accord in accordance with the Bureau's specifications.

19 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

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

21 83. Respondent Service Island's smog check station license is subject to disciplinary  
22 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
23 committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an  
24 electronic smog certificate of compliance for the Bureau's 1989 Honda Accord without  
25 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
26 thereby depriving the People of the State of California of the protection afforded by the Motor  
27 Vehicle Inspection Program.

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1 **FORTY-NINTH CAUSE FOR DISCIPLINE**

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

3 84. Respondent Miller's technician license is subject to disciplinary action pursuant to  
4 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
5 section 44012 of that Code in a material respect, as follows: Respondent failed to perform the  
6 emission control tests on the Bureau's 1989 Honda Accord in accordance with procedures  
7 prescribed by the department.

8 **FIFTIETH CAUSE FOR DISCIPLINE**

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

11 85. Respondent Miller's technician license is subject to disciplinary action pursuant to  
12 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
13 provisions of California Code of Regulations, title 16, as follows:

14 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's  
15 1989 Honda Accord in accordance with Health & Saf. Code sections 44012 and 44035, and  
16 California Code of Regulations, title 16, section 3340.42.

17 b. **Section 3340.41, subdivision (c)**: Respondent knowingly entered into the EIS false  
18 information about the Bureau's 1989 Honda Accord.

19 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
20 Bureau's 1989 Honda Accord in accordance with the Bureau's specifications.

21 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

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

23 86. Respondent Abuamounneh's technician license is subject to disciplinary action  
24 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
25 comply with provisions of that Code in the following material respects:

26 a. **Section 44012**: Respondent failed to perform the emission control tests on the  
27 Bureau's 1989 Honda Accord in accordance with procedures prescribed by the department.

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UNDERCOVER OPERATION #7: 1992 TOYOTA COROLLA

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2 89. On December 22, 2009, a representative of the Bureau, acting in an undercover  
3 capacity (hereinafter "representative"), took the Bureau's 1992 Toyota Corolla to Escondido Test  
4 Only. The ignition timing on the Bureau-documented vehicle was not adjusted to manufacturer's  
5 specifications, the fuel cap was defective, the EVAP (fuel evaporative) upstream hose was  
6 disconnected from the charcoal canister, and the vacuum hose line to the vacuum sensor was  
7 disconnected, causing excessive tailpipe emissions. The representative met with Respondent  
8 Miller and requested a smog inspection on the vehicle. Miller had the representative drive the  
9 vehicle into the smog test bay. The representative presented Miller with a *PennySaver* coupon for  
10 Escondido Test Only. Escondido Test Only was offering smog inspections "from \$38 out the  
11 door . . . no hidden costs" on all vehicles with the coupon. Miller told the representative that the  
12 "out the door" price for the smog inspection was actually \$54 and that the reason for the increase  
13 above the advertised price was due to the "State fees", the certificate fee and VID fee. The  
14 representative authorized the smog inspection on the vehicle. Miller did not provide the  
15 representative with a written estimate. The representative observed Miller while he performed  
16 the inspection on the vehicle. At the conclusion of the inspection, Scott, the service manager,  
17 entered the smog test bay, took the EIS sample probe out of the vehicle's tailpipe, got in the  
18 vehicle, and drove it off of the dynamometer. Later, Scott drove the vehicle out of Escondido  
19 Test Only and parked it in front of the nearest service bay at PTAC. Miller printed two copies of  
20 the VIR for the vehicle and highlighted the smog inspection test results. Miller did not provide  
21 the representative with copies of the VIR or a final invoice. Scott came into the test bay area at  
22 Escondido Test Only and informed the representative that the vehicle did not pass the smog  
23 check. Scott showed the representative the smog check failure results on the VIR, stating that the  
24 hydrocarbons and carbon monoxide were too high. Scott told the representative that he suspected  
25 a failed catalytic converter, oxygen sensor, or spark plugs and that the vehicle could be repaired  
26 next door at PTAC. Scott asked the representative if he had enough time to have the vehicle fixed  
27 and the representative stated "Yes." Scott had the representative follow him to the PTAC facility.  
28 Scott told an employee at the service counter that the representative needed a diagnosis for the

1 smog failure on the vehicle and told the representative that the diagnosis would cost \$39.95. The  
2 employee had the representative sign a written estimate for the diagnosis, but did not provide him  
3 with a copy. Approximately 10 to 15 minutes later, Scott returned to the office and told the  
4 representative that the diagnostic service was completed. Scott also stated that the catalytic  
5 converter and oxygen sensor on the vehicle needed replacement, that the total repair costs on the  
6 vehicle would be \$540, and that the smog retest would be free. The representative asked Scott if  
7 the vehicle would pass the smog check once the catalytic converter and oxygen sensor were  
8 replaced. Scott stated that if the repairs did not bring the numbers down and the vehicle did not  
9 pass, the representative would not have to pay them (PTAC). Scott offered to give the  
10 representative the old parts on the vehicle after the repairs were completed. The representative  
11 authorized the repairs and told Scott that he was leaving the facility, but would return later. Scott  
12 told the representative that he did not need to pay the smog technician (Miller) at Escondido Test  
13 Only because he (Scott) would pay the technician himself. Scott gave the representative a revised  
14 estimate price of \$632.48, including tax, for the repairs and the smog inspection. The  
15 representative left the facility at approximately 1018 hours.

16 90. Between approximately 1450 and 1505 hours, the representative returned to the  
17 PTAC office. At approximately 1630 hours, Scott informed the representative that the vehicle  
18 was finished and showed the representative the VIR from the smog check retest. The  
19 representative asked Scott if the repairs made the vehicle pass the smog check. Scott said "Yes."  
20 The representative observed Scott sign and date the VIR. Scott gave the representative copies of  
21 the VIR's for the initial smog inspection and smog check retest and a final invoice, issued by  
22 PTAC, totaling \$632.48. The VIR for the smog check retest indicated that the vehicle passed the  
23 inspection, resulting in the issuance of electronic smog Certificate of Compliance No.  
24 WF578388C, and that Miller had performed the inspection. The representative paid Scott  
25 \$632.50 in cash.

26 91. Information from the Bureau's VID indicated that Miller performed the initial smog  
27 test on the vehicle. The vehicle had failed the emissions test as a gross polluter, but passed the

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1 visual and functional tests, including the functional ignition timing test, functional fuel cap  
2 integrity test, and functional LPFET check.

3 92. On December 23, 2009, the representative returned to PTAC and picked up the old  
4 catalytic converter and oxygen sensor on the vehicle. Later that same day, the Bureau inspected  
5 the vehicle and found that the vacuum hose to the vacuum sensor had been re-connected;  
6 however, the EVAP upstream hose was still disconnected from the charcoal canister, the ignition  
7 timing still was not adjusted to manufacturer's specifications, and the defective fuel cap was still  
8 in place on the vehicle. The Bureau also found that PTAC had performed unnecessary repairs on  
9 the vehicle.

#### 10 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

##### 11 **(Untrue or Misleading Statements)**

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

16 a. Respondent Service Island's technician, Respondent Miller, certified that the Bureau's  
17 1992 Toyota Corolla had passed the visual and functional tests during the initial smog inspection  
18 on the vehicle. In fact, the ignition timing was not adjusted to manufacturer's specifications, the  
19 fuel cap was defective, the EVAP upstream hose was disconnected from the charcoal canister,  
20 and the vacuum hose line to the vacuum sensor was disconnected.

21 b. Respondent Service Island's technician, Respondent Miller, certified that the Bureau's  
22 1992 Toyota Corolla had passed inspection and was in compliance with applicable laws and  
23 regulations. In fact, the ignition timing was not adjusted to manufacturer's specifications, the  
24 EVAP upstream hose was disconnected from the charcoal canister, and the fuel cap was  
25 defective. As such, the vehicle would not pass the inspection required by Health & Saf. Code  
26 section 44012.

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1 c. Respondent Service Island's technician, Respondent Miller, certified that the LPFET  
2 functional check was not applicable to the Bureau's 1992 Toyota Corolla during both smog  
3 inspections on the vehicle when, in fact, the LPFET test was required on the vehicle.

4 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

6 94. Respondent Service Island's registration is subject to disciplinary action pursuant to  
7 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
8 provisions of that Code in the following material respects:

9 a. **Section 9884.8:** Respondent failed to provide the representative with an invoice for  
10 the smog inspection on the Bureau's 1992 Toyota Corolla.

11 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the representative  
12 with a written estimate for parts and/or labor necessary for the smog inspection on the Bureau's  
13 1992 Toyota Corolla.

14 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 95. Respondent Service Island's registration is subject to disciplinary action pursuant to  
17 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
18 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1992  
19 Toyota Corolla without performing a bona fide inspection of the emission control devices and  
20 systems on the vehicle, thereby depriving the People of the State of California of the protection  
21 afforded by the Motor Vehicle Inspection Program.

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1 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

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

3 96. Respondent Service Island's smog check station license is subject to disciplinary  
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed  
5 to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
7 performed on the Bureau's 1992 Toyota Corolla in accordance with procedures prescribed by the  
8 department.

9 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 1992 Toyota Corolla without properly testing and inspecting the vehicle to  
11 determine if it was in compliance with Health & Saf. Code section 44012.

12 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

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

15 97. Respondent Service Island's smog check station license is subject to disciplinary  
16 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed  
17 to comply with provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.24, subdivision (c):** Respondent Service Island falsely or fraudulently  
19 issued an electronic smog certificate of compliance for the Bureau's 1992 Toyota Corolla.

20 b. **Section 3340.35, subdivision (c):** Respondent Service Island issued an electronic  
21 smog certificate of compliance for the Bureau's 1992 Toyota Corolla even though the vehicle had  
22 not been inspected in accordance with section 3340.42.

23 c. **Section 3340.41, subdivision (a):** Respondent Service Island failed to give the  
24 representative a copy of the VIR for the initial smog inspection on the Bureau's 1992 Toyota  
25 Corolla.

26 d. **Section 3340.41, subdivision (c):** Respondent Service Island authorized or permitted  
27 its technician, Respondent Miller, to knowingly enter into the EIS false information about the  
28 Bureau's 1992 Toyota Corolla.

1 e. **Section 3340.42:** Respondent failed to ensure that the required smog tests were  
2 conducted on the Bureau's 1992 Toyota Corolla in accordance with the Bureau's specifications.

3 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

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

5 98. Respondent Service Island's smog check station license is subject to disciplinary  
6 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent  
7 committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an  
8 electronic smog certificate of compliance for the Bureau's 1992 Toyota Corolla without  
9 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
10 thereby depriving the People of the State of California of the protection afforded by the Motor  
11 Vehicle Inspection Program.

12 **SIXTIETH CAUSE FOR DISCIPLINE**

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

14 99. Respondent Miller's technician license is subject to disciplinary action pursuant to  
15 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
16 provisions of that Code in the following material respects:

17 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
18 Bureau's 1992 Toyota Corolla in accordance with procedures prescribed by the department.

19 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
20 issuance of an electronic smog certificate of compliance for the Bureau's 1992 Toyota Corolla.

21 **SIXTY-FIRST CAUSE FOR DISCIPLINE**

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

24 100. Respondent Miller's technician license is subject to disciplinary action pursuant to  
25 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
26 provisions of California Code of Regulations, title 16, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
28 electronic smog certificate of compliance for the Bureau's 1992 Toyota Corolla.

1 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's  
2 1992 Toyota Corolla in accordance with Health & Saf. Code sections 44012 and 44035, and  
3 California Code of Regulations, title 16, section 3340.42.

4 c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered into the EIS false  
5 information about the Bureau's 1992 Toyota Corolla.

6 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
7 Bureau's 1992 Toyota Corolla in accordance with the Bureau's specifications.

### 8 **SIXTY-SECOND CAUSE FOR DISCIPLINE**

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

10 101. Respondent Miller's technician license is subject to disciplinary action pursuant to  
11 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
12 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
13 compliance for the Bureau's 1992 Toyota Corolla without performing a bona fide inspection of  
14 the emission control devices and systems on the vehicle, thereby depriving the People of the State  
15 of California of the protection afforded by the Motor Vehicle Inspection Program.

#### 16 **OTHER MATTERS**

17 102. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
18 suspend, revoke, or place on probation the registration for all places of business operated in this  
19 state by Respondent Service Island, Inc., doing business as Escondido Test Only, upon a finding  
20 that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
21 regulations pertaining to an automotive repair dealer.

22 103. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
23 License Number TC 233965, issued to Respondent Service Island, Inc., doing business as  
24 Escondido Test Only, is revoked or suspended, any additional license issued under this chapter in  
25 the name of said licensee may be likewise revoked or suspended by the Director.

26 104. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
27 Technician License Number EA 145097, issued to Scott Alan Miller, is revoked or suspended,

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1 any additional license issued under this chapter in the name of said licensee may be likewise  
2 revoked or suspended by the Director.

3 105. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
4 Technician License Number EA 152453, issued to Mohamad Walid Abuamouneh, is revoked or  
5 suspended, any additional license issued under this chapter in the name of said licensee may be  
6 likewise revoked or suspended by the Director.

7 **PRAYER**

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

10 1. Revoking or suspending Automotive Repair Dealer Registration Number  
11 ARD 233965, issued to Service Island, Inc., doing business as Escondido Test Only;

12 2. Revoking or suspending any other automotive repair dealer registration issued to  
13 Service Island, Inc.;

14 3. Revoking or suspending Smog Check, Test Only, Station License Number  
15 TC 233965, issued to Service Island, Inc., doing business as Escondido Test Only;

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

18 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
19 EA 145097, issued to Scott Alan Miller;

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

22 7. Revoking or suspending Advanced Emission Specialist Technician License Number  
23 EA 152453, issued to Mohamad Walid Abuamouneh;

24 8. Revoking or suspending any additional license issued under Chapter 5 of the Health  
25 and Safety Code in the name of Mohamad Walid Abuamouneh;

26 9. Ordering Respondents Service Island, Inc., doing business as Escondido Test Only,  
27 Scott Alan Miller, and Mohamad Walid Abuamouneh to pay the Director of Consumer Affairs

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1 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
2 Professions Code section 125.3;

3 10. Taking such other and further action as deemed necessary and proper.

4  
5 DATED: 10/20/10



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

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