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

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

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE 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 Reg. No. ARD 233965** **Smog Check, Test Only, Station License No. TC233965;** **SCOTT ALAN MILLER** **8373-A Summerdale Road** **San Diego, CA 92126** **Advanced Emission Specialist Technician No. EA145097;** **and** **MOHAMAD WALID ABUAMOUNEH** **P.O. Box 461287** **Escondido, CA 92046** **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**

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

PARTIES

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

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

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

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

JURISDICTION

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

ADVISEMENT AND WAIVERS

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

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

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 79/11-30, if proven at a hearing, constitute cause for imposing discipline upon his Advanced Emission Specialist Technician License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest those charges.

10. Respondent agrees that his Advanced Emission Specialist Technician License is subject to discipline and agrees to be bound by the Director's terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Director or his designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

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

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

DISCIPLINARY ORDER

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

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

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

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

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

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

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

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

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

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

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

ACCEPTANCE

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

DATED: 7-8-11

SCOTT ALAN MILLER
Respondent

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

DATED: 7/8/11

MICHAEL B. LEVIN
Attorney for Respondent

ENDORSEMENT

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

DATED: July 8, 2011

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

G. MICHAEL GERMAN
Deputy Attorney General
Attorneys for Complainant

SD2010701836

Exhibit A

Accusation No. 79/11-30

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ALFREDO TERRAZAS
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LINDA K. SCHNEIDER
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **SERVICE ISLAND, INC.,** **dba ESCONDIDO TEST ONLY** **GHADA K. ABUAMOUNEH,** **a.k.a. GHADA WALID ABUAMOUNEH, PRES.** **615 W. El Norte Parkway, #320** **Escondido, CA 92026** **Automotive Repair Dealer Reg. 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,** **and** **MOHAMAD WALID ABUAMOUNEH** **P.O. Box 461287** **Escondido, CA 92046** **Advanced Emission Specialist Technician License No. EA 152453** Respondents.	Case No. 79/11-30 **A C C U S A T I O N** **(Smog Check)**

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Complainant alleges:

PARTIES

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

Service Island dba Escondido Test Only

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

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

Scott Alan Miller

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

Mohamad Walid Abuamouneh

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

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JURISDICTION

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

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

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

9. Health & Saf. 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 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any 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.
>
> . . . .
>
> (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.
>
> (4) Any other conduct which constitutes fraud.
>
> . . . .
>
> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

. . . .

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

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

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

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:
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> . . . .
>
> (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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UNDERCOVER OPERATION #1: 1991 TOYOTA PICKUP TRUCK

18. On September 16, 2009, a representative of the Bureau conducted a station inspection at Escondido Test Only and reviewed the facility's low pressure fuel evaporative test ("LPFET")[1] history. The representative informed Respondent Miller that the Bureau was concerned the facility had not performed LPFET checks since July 2009. Later, the representative determined that the facility's LPFET tester was functional and that there were no communication problems between the tester and the data depot (the LPFET tester requires the test data to be downloaded via phone modem to the LPFET data depot).

19. On September 24, 2009, the representative conducted a follow-up inspection at the facility and determined that 28 LPFET checks were transmitted to the Bureau's VID (vehicle information database) since the date of his initial inspection (September 16, 2009) and that the facility's LPFET unit was functional and operating properly.

20. Later, the representative reviewed VID data pertaining to smog inspections conducted at the facility from September 28, 2009, to October 26, 2009. The VID data indicated that the facility was not performing the required LPFET check on vehicles.

21. On October 24, 2009, an undercover operator with the Bureau (hereinafter "operator") took the Bureau's 1991 Toyota pickup truck to the facility and met with the cashier, "Sam". The operator requested a smog inspection on the Bureau-documented vehicle. Sam had the operator sign an estimate for the inspection, but did not provide him with a copy. The operator observed Respondent Miller perform the inspection on the vehicle. Miller did not conduct the required functional ignition timing check, the visual fuel cap check, the functional fuel cap integrity test, or the functional LPFET check on the vehicle. After the inspection was

[1] Beginning December 1, 2008, smog check station owners were required to conduct a functional test of the fuel evaporative system, known as the LPFET, on 1995 and older vehicles to check for leaking fuel evaporative systems. The LPFET is conducted with a stand- alone device known as an LPFET tester. When requested by the Emission Inspection System ("EIS"), the technician determines whether the vehicle's fuel evaporative system is compatible with the LPFET. If the vehicle can be tested, the technician starts a test in the LPFET tester and identifies the vehicle being tested by entering the last four digits of the vehicle's VIN into the tester. The technician then conducts the LPFET as directed by the tester. When the test is finished, the tester determines whether the vehicle passes or fails, records the test data, and displays the test results for the technician. The technician then enters the LPFET results into the EIS.

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

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

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

THIRD CAUSE FOR DISCIPLINE

(Fraud)

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

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FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

FIFTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

27. Respondent Service Island's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup truck without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

a. **Section 44012:** Respondent failed to perform the emission control tests on the Bureau's 1991 Toyota pickup truck in accordance with procedures prescribed by the department.

b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the issuance of an electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup truck.

EIGHTH CAUSE FOR DISCIPLINE

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

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

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

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b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's 1991 Toyota pickup truck in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered into the EIS false information about the Bureau's 1991 Toyota pickup truck.

d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the Bureau's 1991 Toyota pickup truck in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

30. Respondent Miller's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup truck without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

UNDERCOVER OPERATION #2: 1989 CHEVROLET CORSICA

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

32. On October 24, 2009, at approximately 1140 hours, the operator involved in the first undercover operation took the Bureau's 1989 Chevrolet Corsica to Escondido Test Only and met with Sam. The operator requested a smog inspection on the Bureau-documented vehicle. Sam had the operator sign an estimate for the inspection, but did not provide him with a copy. The operator observed Respondent Miller perform the inspection on the vehicle. Miller did not conduct the required visual fuel cap check, the functional fuel cap integrity test, or the functional LPFET check on the vehicle. After the inspection was completed, the operator paid Sam $50. Sam wrote an "S" on the second page of the VIR at the technician signature block and provided the operator with copies of the VIR and an invoice. The operator left the facility at approximately

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

TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

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

TWELFTH CAUSE FOR DISCIPLINE

(Fraud)

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

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THIRTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

FOURTEENTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

FIFTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

SIXTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the issuance of an electronic smog certificate of compliance for the Bureau's 1989 Chevrolet Corsica.

SEVENTEENTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

EIGHTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

UNDERCOVER OPERATION #3: 1995 CHEVROLET LUMINA

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

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

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

NINETEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

TWENTIETH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

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

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Fraud)

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

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TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

TWENTY-THIRD CAUSE FOR DISCIPLINE

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

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

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

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

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

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

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

TWENTY-SIXTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

UNDERCOVER OPERATION #4: 1979 BUICK LE SABRE

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

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

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TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

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

THIRTIETH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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THIRTY-FIRST CAUSE FOR DISCIPLINE

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

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

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

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

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

THIRTY-THIRD CAUSE FOR DISCIPLINE

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

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

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

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

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

UNDERCOVER OPERATION #5: 1988 TOYOTA TERCEL

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

62. At approximately 1430 hours that same day, the operator returned to PTAC, paid Scott $464 in cash, and received copies of Invoice No. 66269 from PTAC, Invoice No. RO36838, totaling $8.25, from Escondido Test Only, and a VIR. The VIR indicated that the vehicle passed the inspection, resulting in the issuance of electronic smog Certificate of Compliance No. WF161956C, and that Miller had performed the inspection. The operator went to Escondido Test Only and paid Miller $8 in cash for the smog certificate. The operator asked Scott for the old catalytic converter on the vehicle, which Scott provided. Later, the operator informed the Bureau it appeared to her that Scott was the service manager for both Escondido and PTAC and was running both facilities as one business.

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

64. On November 23, 2009, the Bureau inspected the vehicle and found that the hoses had been re-connected to the charcoal canister and the vacuum sensor at the BVSV and that the vehicle now passed the emissions test and the LPFET functional test. However, the ignition timing still was not adjusted to manufacturer's specifications and the defective fuel cap was still in place on the vehicle. The Bureau also found that PTAC had performed an unnecessary repair on the vehicle; i.e., the replacement of the catalytic converter.[2]

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

65. Respondent Service Island's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized

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[2] An Accusation has been filed against PTAC in connection with the Bureau's fifth through seventh undercover operations described herein.

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

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

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

THIRTY-FIFTH CAUSE FOR DISCIPLINE

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

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

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

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

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

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

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

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

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

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

FORTIETH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

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FORTY-FIRST CAUSE FOR DISCIPLINE

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

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

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

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

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

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

FORTY-SECOND CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

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UNDERCOVER OPERATION #6: 1989 HONDA ACCORD

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

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

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

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

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

FORTY-THIRD CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

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

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

FORTY-FOURTH CAUSE FOR DISCIPLINE

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

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

FORTY-FIFTH CAUSE FOR DISCIPLINE

(Fraud)

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

FORTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

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FORTY-SEVENTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

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

FORTY-EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

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FORTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

FIFTIETH CAUSE FOR DISCIPLINE

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

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

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

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

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

FIFTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the issuance of an electronic smog certificate of compliance for the Bureau's 1989 Honda Accord.

FIFTY-SECOND CAUSE FOR DISCIPLINE

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

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

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

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

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

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

FIFTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

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UNDERCOVER OPERATION #7: 1992 TOYOTA COROLLA

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

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

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

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

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

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

FIFTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

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

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

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

FIFTY-FIFTH CAUSE FOR DISCIPLINE

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

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

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

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

FIFTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

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

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FIFTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

FIFTY-EIGHTH CAUSE FOR DISCIPLINE

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

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

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

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

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

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

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

FIFTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

SIXTIETH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

SIXTY-FIRST CAUSE FOR DISCIPLINE

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

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

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

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

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

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

SIXTY-SECOND CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

OTHER MATTERS

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

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

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

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

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

PRAYER

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

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

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

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

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

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

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

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

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

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

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

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

DATED: _____

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

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