

**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

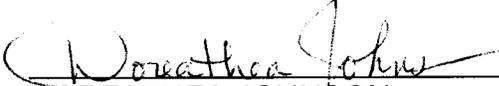
OAH No. 2010110588

DECISION

The attached Stipulated Settlement and Disciplinary Order as to Respondent Mohamad Walid Abuamouneh 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 Mohamad Walid Abuamouneh, Advanced Emission Specialist Technician License No. EA 152453.

This Decision shall become effective 11/14/11.

DATED: October 5, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN
Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

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

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

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

and

Respondents.

Case No. 79/11-30

OAH No. 2010110588

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER AS
TO RESPONDENT MOHAMAD
WALID ABUAMOUNEH

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

31 PARTIES

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

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

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

6 3. In 2005 the Bureau issued Advanced Emission Specialist Technician License No.
7 EA152453 to Respondent. The Advanced Emission Specialist Technician License was in full
8 force and effect at all times relevant to the charges brought in Accusation No. 79/11-30 and will
9 expire on January 31, 2012, unless renewed.

10 JURISDICTION

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

16 ADVISEMENT AND WAIVERS

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

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

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

1 CULPABILITY

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

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

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

12 CONTINGENCY

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

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

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

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No.
9 EA152453 issued to Mohamad Walid Abuamouneh is revoked. However, the revocation is
10 stayed and Respondent is placed on probation for three years on the following terms and
11 conditions.

12 1. **Actual Suspension.** Advanced Emission Specialist Technician License No.
13 EA152453 issued in 2005 to Mohamad Walid Abuamouneh is suspended for ten consecutive
14 business days beginning on the effective date of the decision.

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

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

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

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

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

1 on the accusation, and the period of probation shall be extended until such decision.

2 7. **Violation of Probation.** Should the Director determine that Respondent has failed to
3 comply with the terms and conditions of probation, the Department may, after giving notice and
4 opportunity to be heard, temporarily or permanently invalidate Respondent's license no.
5 EA152453.

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

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

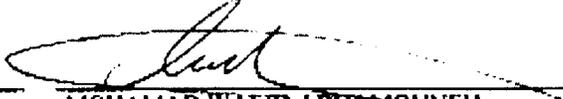
17 10. **Cost Recovery.** Payment to the Bureau of 50% of the Bureau's \$15,500.00 total
18 enforcement costs, jointly and severally with co-Respondent Scott Alan Miller, in the amount of
19 \$7,750.00, in certified funds no later than 30 months before Respondent's probation terminates.
20 Failure to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

24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will
27 have on my Advanced Emission Specialist Technician License. I enter into this Stipulated
28

1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Director of Consumer Affairs.

3
4 DATED: 7/8/11


5 MOHAMAD WALID ABUAMOUNEH
6 Respondent

7 I have read and fully discussed with Respondent Mohamad Walid Abuamounch the terms
8 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
9 Order. I approve its form and content.

10 DATED: 7/8/11


11 MICHAEL B. LEVIN
12 Attorney for Respondent

13 ENDORSEMENT

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

16 DATED: July 8, 2011

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


19 G. MICHAEL GERMAN
20 Deputy Attorney General
21 Attorneys for Complainant

22 SD2010701836
23
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Exhibit A

Accusation No. 79/11-30

1 EDMUND G. BROWN JR.
2 Attorney General of California
3 ALFREDO TERRAZAS
4 Senior Assistant Attorney General
5 LINDA K. SCHNEIDER
6 Supervising Deputy Attorney General
7 State Bar No. 101336
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10 P.O. Box 85266
11 San Diego, CA 92186-5266
12 Telephone: (619) 645-3037
13 Facsimile: (619) 645-2061
14 *Attorneys for Complainant*

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

In the Matter of the Accusation Against:

Case No. 79/11-30

**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,**

**ACCUSATION
(Smog Check)**

**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.

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1 Complainant alleges:

2 **PARTIES**

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

5 **Service Island dba Escondido Test Only**

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

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

16 **Scott Alan Miller**

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

21 **Mohamad Walid Abuamouneh**

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

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JURISDICTION

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.

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

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

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

8

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

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

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

14

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

19

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

22 16. Health & Saf. Code section 44072.8 states that when a license has been revoked or
23 suspended following a hearing under this article, any additional license issued under this chapter
24 in the name of the licensee may be likewise revoked or suspended by the director.

25 **COST RECOVERY**

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

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1. UNDERCOVER OPERATION #1: 1991 TOYOTA PICKUP TRUCK

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

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

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

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

23 ¹ Beginning December 1, 2008, smog check station owners were required to conduct a
24 functional test of the fuel evaporative system, known as the LPFET, on 1995 and older vehicles to
25 check for leaking fuel evaporative systems. The LPFET is conducted with a stand- alone device
26 known as an LPFET tester. When requested by the Emission Inspection System ("EIS"), the
27 technician determines whether the vehicle's fuel evaporative system is compatible with the
28 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.

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

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

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

14 **SECOND CAUSE FOR DISCIPLINE**

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

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

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Fraud)**

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

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1. SIXTH CAUSE FOR DISCIPLINE

2. (Dishonesty, Fraud or Deceit)

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

10. SEVENTH CAUSE FOR DISCIPLINE

11. (Violations of the Motor Vehicle Inspection Program)

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

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

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

20. EIGHTH CAUSE FOR DISCIPLINE

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

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

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

28. ///

1 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's
2 1991 Toyota pickup truck in accordance with Health & Saf. Code sections 44012 and 44035, and
3 California Code of Regulations, title 16, section 3340.42.

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

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

8 **NINTH CAUSE FOR DISCIPLINE**

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

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

16 **UNDERCOVER OPERATION #2: 1989 CHEVROLET CORSICA**

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

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

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

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

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

12 **ELEVENTH CAUSE FOR DISCIPLINE**

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

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

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 **(Fraud)**

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

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

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

10 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

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

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

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

19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

8 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

3 **NINETEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

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

12 **TWENTIETH CAUSE FOR DISCIPLINE**

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

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

17 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

18 **(Fraud)**

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

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

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

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

8 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

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

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

12 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

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

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

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

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

23 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

24 **(Fraud)**

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

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

3 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

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

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

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

14 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

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

6 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

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

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

15 **FORTIETH CAUSE FOR DISCIPLINE**

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

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

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

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

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1 **FORTY-FIRST CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

16 **FORTY-SECOND CAUSE FOR DISCIPLINE**

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

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

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UNDERCOVER OPERATION #6: 1989 HONDA ACCORD

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

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

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

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

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

12 **FORTY-THIRD CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

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

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

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

1 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

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

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

8 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

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

16 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

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

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

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

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

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1 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

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

19 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

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

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

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1 **FORTY-NINTH CAUSE FOR DISCIPLINE**

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

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

8 **FIFTIETH CAUSE FOR DISCIPLINE**

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

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

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

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

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

21 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

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

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

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

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UNDERCOVER OPERATION #7: 1992 TOYOTA COROLLA

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

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

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

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

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

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

10 FIFTY-FOURTH CAUSE FOR DISCIPLINE

11 (Untrue or Misleading Statements)

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

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

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

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

4 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

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

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

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

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

14 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

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

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1 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

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

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

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

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

12 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

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

3 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

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

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

12 **SIXTIETH CAUSE FOR DISCIPLINE**

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

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

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

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

21 **SIXTY-FIRST CAUSE FOR DISCIPLINE**

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

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

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

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

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

7 **PRAYER**

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

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

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

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

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

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

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

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

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

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

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

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

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5 DATED: 10/21/10


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

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