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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: **DESERT JUNCTION SMOG TEST ONLY** **CHARLES RONALD TAYLOR, OWNER** **390 S. San Gorgonio Avenue, Unit B** **Banning, CA 92220** **Automotive Repair Dealer Reg. No. ARD 263844** **Smog Check, Test Only, Station License No. TC 263844** **and** **JOHN LOUIS BARROW, JR.** **448 East 15th Street, Unit 8** **Beaumont, CA 92223** **Advanced Emission Specialist Technician License No. EA 632391** Respondents.	Case No. 79/12-163 **ACCUSATION** **(Smog Check)**

Complainant alleges:

PARTIES/LICENSE INFORMATION

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

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Desert Junction Smog Test Only; Charles Ronald Taylor, Owner

2. On or about January 20, 2011, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 263844 ("registration") to Charles Ronald Taylor ("Respondent Taylor" or "Taylor"), owner of Desert Junction Smog Test Only. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

3. On or about January 21, 2011, the Director issued Smog Check, Test Only, Station License Number TC 263844 ("smog check station license") to Respondent Taylor. 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 January 31, 2013, unless renewed.

John Louis Barrow, Jr.

4. On or about August 16, 2010, the Director issued Advanced Emission Specialist Technician License Number EA 632391 ("technician license") to John Louis Barrow, Jr. ("Respondent Barrow" or "Barrow"). Respondent's technician license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

Douglas James

5. In or about 1997, the Director issued Advanced Emission Specialist Technician License Number EA 137415 ("technician license") to Douglas James ("James"). On August 13, 2007, James' technician license was revoked.

6. On or about August 13, 2009, in Riverside County Superior Court, Case No. RIF149288, James pled guilty to violating Penal Code section 502, subdivision (c)(1) (alter, damage, delete, destroy, or use data, computers, computer systems, etc., in order to devise or execute a scheme/artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or data), a felony. The imposition of James' sentence was suspended and James was placed on probation for 36 months on terms and conditions. Condition 6 of James' probation states that he may work in an automotive repair shop, but may not personally conduct or supervise smog testing.

JURISDICTION

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

8. 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.

9. 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.

10. 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 AND REGULATORY PROVISIONS

11. 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.
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> (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.
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> (4) Any other conduct that constitutes fraud.
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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.

12. Bus. & Prof. Code section 118, subdivision (b), states:

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

13. Bus. & Prof. Code section 22, subdivision (a), states:

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

14. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

15. 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:
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> (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.
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> . . . .
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> (c) Violates any of the regulations adopted by the director pursuant to this chapter.
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> (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.
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> (f) Aids or abets unlicensed persons to evade the provisions of this chapter . . .

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16. 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:

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

. . . .

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

17. 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.

18. California Code of Regulations, title 16, section 3340.1 states, in pertinent:

. . . .

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

COST RECOVERY

19. 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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VIDEO SURVEILLANCE OPERATION OF DECEMBER 29, 2011

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

Time of Inspection	Vehicle Certified & License No.	Vehicle Actually Tested	Certificate No.	Violation
1. 1314 - 1324	1999 GMC Sierra C1500 pickup; License # 596563X	2001 Mazda 626; License # 4WUF065	None; smog test aborted	Vehicle was clean piped
2. 1328 - 1337	1999 GMC Sierra C1500 pickup; License # 596563X	2001 Mazda 626; License # 4WUF065	None; smog test aborted	Vehicle was clean piped
3. 1408 - 1421	2003 Toyota Camry; License # 5MBK426	2001 Mazda 626; License # 4WUF065	XB155898C	Vehicle was clean-plugged
4. 1434 - 1442	1999 GMC Sierra C1500 pickup; License # 596563X	2003 Toyota Camry; License # 5MBK426	XB155899C	Vehicle was clean piped
5. 1451 - 1515	1988 Ford Ranger; License # 3N16375	1994 Ford Escort; License # 3HPM654	XB155900C	Vehicle was clean piped
6. 1524- 1542	1990 Chrysler New Yorker; License # 2TMD107	1994 Ford Escort; License # 3HPM654	None; vehicle failed inspection	Vehicle was clean piped
7. 1554 - 1600	1998 Ford Explorer; License # 3XLV699	2004 Chrysler PT Cruiser; License # 5FQJ876	XB902051C	Vehicle was clean piped
8. 1607 - 1624	1984 Dodge D350 pickup; License # 2L64532	1994 Ford Escort; License # 3HPM654	None; vehicle failed inspection	Vehicle was clean piped

[1] Clean-plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle that is not in compliance due to a failure to complete the minimum number of self tests, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

21. Respondent Taylor'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 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Taylor's technician, Respondent Barrow, certified that vehicle 3, identified in paragraph 20 above, had passed inspection and was in compliance with applicable laws and regulations. In fact, Barrow conducted the inspection on vehicle 3 using clean-plugging methods in that he substituted or used a different vehicle during the OBD II functional test[2] in order to issue a smog certificate of compliance for the vehicle, and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

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

c. Respondent Taylor's technician, Respondent Barrow, certified that vehicle 7, identified in paragraph 20 above, had passed inspection and was in compliance with applicable laws and regulations, when, in fact, the vehicle was clean piped. Further, James, whose technician license was revoked on August 13, 2007, participated in the clean piping of the vehicle, and Barrow's technician license number and confidential access code were used during the inspection to certify the vehicle.

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[2] The On Board Diagnostics (OBD II) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II functional test, it will fail the overall inspection.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

22. Respondent Taylor's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud by issuing electronic smog certificates of compliance for vehicles 3 through 5 and 7, identified in paragraph 20 above, without ensuring that bona fide inspections were performed of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

23. Respondent Taylor'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 provisions of that Code, as follows:

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

b. **Section 44014, subdivision (a):** Respondent authorized or permitted James to participate in the smog inspection on vehicle 7, identified in paragraph 20 above, when, in fact, James' technician license was revoked.

c. **Section 44015:** Respondent issued electronic smog certificates of compliance for vehicles 3 through 5 and 7, identified in paragraph 20 above, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health & Saf. Code section 44012.

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FOURTH CAUSE FOR DISCIPLINE

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

24. Respondent Taylor'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 3340.35, subdivision (c):** Respondent Taylor issued electronic smog certificates of compliance for vehicles 3 through 5, and 7, identified in paragraph 20 above, even though those vehicles had not been inspected in accordance with section 3340.42.

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

c. **Section 3340.42:** Respondent Taylor failed to ensure that the required smog tests were conducted on vehicles 1 through 8, identified in paragraph 20 above, in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

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

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SIXTH CAUSE FOR DISCIPLINE

(Aiding or Abetting Unlicensed Persons)

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

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

27. Respondent Barrow'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, as follows:

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

b. **Section 44014, subdivision (a):** Respondent authorized or permitted James to participate in the smog inspection on vehicle 7, identified in paragraph 20 above, when, in fact, James' technician license was revoked on August 13, 2007.

EIGHTH CAUSE FOR DISCIPLINE

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

28. Respondent Barrow'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 ensure that vehicles 1 through 8, identified in paragraph 20 above, were inspected and tested in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

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

c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were conducted on vehicles 1 through 8, identified in paragraph 20 above, in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

29. Respondent Barrow's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 3 through 5 and 7, identified in paragraph 20 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TENTH CAUSE FOR DISCIPLINE

(Aiding or Abetting Unlicensed Persons)

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

VIDEO SURVEILLANCE OPERATION OF JANUARY 5, 2012

31. On January 5, 2012, representatives of the Bureau conducted a video surveillance operation of Respondent Taylor's smog check facility. The surveillance video and information obtained from the Bureau's VID revealed that Respondent Barrow issued electronic smog certificates of compliance on behalf of Taylor, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Barrow conducted the inspections using clean piping methods, resulting in

the issuance of fraudulent certificates of compliance for the vehicles. Further, vehicles 1 through 3 were not present at the station during the smog inspections.

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

ELEVENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

32. Respondent Taylor'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 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Taylor's technician, Respondent Barrow, certified that vehicles 1 through 4, identified in paragraph 31 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Barrow used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

TWELFTH CAUSE FOR DISCIPLINE

(Fraud)

33. Respondent Taylor's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 31 above, without ensuring that bona fide inspections were performed of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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THIRTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

34. Respondent Taylor'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 provisions of that Code, as follows:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on vehicles 1 through 4, identified in paragraph 31 above, in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 31 above, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health & Saf. Code section 44012.

FOURTEENTH CAUSE FOR DISCIPLINE

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

35. Respondent Taylor'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 3340.35, subdivision (c):** Respondent Taylor issued electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 31 above, even though those vehicles had not been inspected in accordance with section 3340.42.

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

c. **Section 3340.42:** Respondent Taylor failed to ensure that the required smog tests were conducted on vehicles 1 through 4, identified in paragraph 31 above, in accordance with the Bureau's specifications.

FIFTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

36. Respondent Taylor's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 31 above, without ensuring that bona fide inspections were performed of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

37. Respondent Barrow'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, as follows: Respondent failed to perform emission control tests on vehicles 1 through 4, identified in paragraph 31 above, in accordance with procedures prescribed by the department.

SEVENTEENTH CAUSE FOR DISCIPLINE

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

38. Respondent Barrow'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 vehicles 1 through 4, identified in paragraph 31 above, 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 entered false information into the EIS by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.

c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1 through 4, identified in paragraph 31 above, in accordance with the Bureau's specifications.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

39. Respondent Barrow's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 4, identified in paragraph 31 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SURVEILLANCE OPERATION OF JANUARY 17, 2012

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

NINETEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Taylor's technician, Respondent Barrow, certified that the 1978 Dodge truck had passed inspection and was in compliance with applicable laws and regulations. In fact, Barrow used clean piping methods in order to issue a certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

TWENTIETH CAUSE FOR DISCIPLINE

(Fraud)

42. Respondent Taylor's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an electronic smog certificates of compliance for the 1978 Dodge truck without ensuring that a bona fide inspection was performed 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-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

43. Respondent Taylor'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 provisions of that Code, as follows:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on the 1978 Dodge truck in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the 1978 Dodge truck without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health & Saf. Code section 44012.

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TWENTY-SECOND CAUSE FOR DISCIPLINE

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

44. Respondent Taylor'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 3340.35, subdivision (c):** Respondent Taylor issued an electronic smog certificate of compliance for the 1978 Dodge truck even though the vehicle had not been inspected in accordance with section 3340.42.

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

c. **Section 3340.42:** Respondent Taylor failed to ensure that the required smog tests were conducted on the 1978 Dodge truck in accordance with the Bureau's specifications.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

45. Respondent Taylor'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 1978 Dodge truck without ensuring that a bona fide inspection was performed 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-FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

46. Respondent Barrow'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, as follows: Respondent failed to perform the emission control tests on the 1978 Dodge truck in accordance with procedures prescribed by the department.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

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

47. Respondent Barrow'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 1978 Dodge truck 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 entered false information into the EIS by entering vehicle identification information or emission control system identification data for a vehicle other than the one being tested.

c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1978 Dodge truck in accordance with the Bureau's specifications.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

48. Respondent Barrow'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 1978 Dodge 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.

OTHER MATTERS

49. 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 Charles Ronald Taylor, owner of Desert Junction Smog Test Only, upon a

finding that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

50. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station License Number TC 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog 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.

51. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 632391, issued to John Louis Barrow, Jr., 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 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog Test Only;

2. Revoking or suspending any other automotive repair dealer registration issued to Charles Ronald Taylor;

3. Revoking or suspending Smog Check, Test Only, Station License Number TC 263844, issued to Charles Ronald Taylor, owner of Desert Junction Smog Test Only;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Charles Ronald Taylor;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 632391, issued to John Louis Barrow, Jr.;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of John Louis Barrow, Jr.;

7. Ordering Charles Ronald Taylor, owner of Desert Junction Smog Test Only, and John Louis Barrow, Jr. to pay the Bureau of Automotive Repair the reasonable costs of the

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

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

DATED: June 8, 2012

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

SD2012703090