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7  
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:

Case No. 79/13-09

13 **WESTERN TEST ONLY;**  
14 **TRAVIS ENGLISH, OWNER**  
3321 W. Florence Avenue  
Los Angeles, CA 90043

**A C C U S A T I O N**  
**S M O G C H E C K**

15 Automotive Repair Dealer Registration No.  
ARD 267948  
16 Smog Check Test Only Station License No. TC  
267948

17 and

18 **TRAVIS AARON ENGLISH**  
19 3734 W. 173rd Street  
Torrance, CA 90504

20 Advanced Emission Specialist Technician  
21 License No. EA 633842

22 Respondents.

23  
24 Complainant alleges:

25 **PARTIES**

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

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(f) Aids or abets unlicensed persons to evade the provisions of this chapter.

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12. 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 . . .

13. Health & Saf. Code section 44032 states that no person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person performing the test or repair is a qualified smog check technician and the test or repair is a qualified smog technician and the test or repair is performed at a licensed smog check station. Qualified technicians shall perform tests of emission control devices and systems in accordance with section 44012.

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 Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or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

**COST RECOVERY**

15. Bus. & Prof. Code section 125.3 provides, in pertinent part, that the Bureau 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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Table 1

Test #	Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
1.	09:28- 10:08	2003 Mazda Tribute (No license plates)	1998 Ford Escort (4FVY221)	XF864781C
2.	10:39-11:02	1993 Toyota Echo (No license plates)	1998 Ford Escort (4FVY221)	XF864782C
3.	11:15-11:40	1979 Toyota Pickup (8V42458)	Unknown	XF864783C
4.	12:13-12:35	1990 Mazda Miata (2RIH198)	1998 Ford Escort (4FVY221)	XF864784C
5.	12:50-13:15	1999 Subaru Forrester (No license plates)	1998 Ford Escort (4FVY221)	XF864785C
6.	13:25-13:44	1998 GMC C-3500 Pickup (6N80242)	1998 Ford Escort (4FVY221)	XF864786C
7.	14:06-14:38	1980 Triumph Spitfire (No license plates)	1998 Ford Escort (4FVY221)	XF864787C

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

17. Respondent Western Test Only has subjected its ARD registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about April 19, 2012, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading, as follows: Respondent English certified that vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent English 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.

**SECOND CAUSE FOR DISCIPLINE**

**(Fraud)**

18. Respondent Western Test Only has subjected its ARD registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about April 19, 2012, he committed acts which constitute fraud by issuing electronic certificates of compliance for vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, without performing bona fide inspections

1 of the emission control devices and systems on those vehicles, thereby depriving the People of the  
2 State of California of the protection afforded by the Motor Vehicle Inspection Program.

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 19. Respondent Western Test Only has subjected its station license to discipline under  
6 Health and Safety Code section 44072.2, subdivision (a), in that on or about April 19, 2012,  
7 regarding vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, he  
8 violated sections of that Code, as follows:

9 a. **Section 44012, subdivision (a)**: Respondent Western Test Only failed to determine  
10 that all emission control devices and systems required by law were installed and functioning  
11 correctly in accordance with test procedures prescribed by the department.

12 b. **Section 44012, subdivision (f)**: Respondent Western Test Only failed to perform  
13 emission control tests on those vehicles in accordance with procedures prescribed by the  
14 department.

15 c. **Section 44015, subdivision (b)**: Respondent Western Test Only issued electronic  
16 certificates of compliance without properly testing and inspecting the vehicles to determine if  
17 they were in compliance with section 44012 of that Code.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 20. Respondent Western Test Only has subjected its station license to discipline under  
21 Health and Safety Code section 44072.2, subdivision (c), in that on or about April 19, 2012,  
22 regarding vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, he  
23 violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c)**: Respondent Western Test Only falsely or  
25 fraudulently issued electronic smog certificates of compliance.

26 b. **Section 3340.35, subdivision (c)**: Respondent Western Test Only issued electronic  
27 certificates of compliance even though those vehicles had not been inspected in accordance with  
28 section 3340.42 of that Code.

1 c. **Section 3340.41, subdivision (c)**: Respondent Western Test Only's technician,  
2 Respondent English, entered false information into the Emission Inspection System ("EIS") by  
3 entering vehicle identification information or emission control system identification data for  
4 vehicles other than the ones being tested.

5 d. **Section 3340.42**: Respondent Western Test Only failed to conduct the required smog  
6 tests and inspections on those vehicles in accordance with the Bureau's specifications.

7 **FIFTH CAUSE FOR DISCIPLINE**

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

9 21. Respondent Western Test Only has subjected its station license to discipline under  
10 Health and Safety Code section 44072.2, subdivision (d), in that on or about April 19, 2012,  
11 regarding vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, he  
12 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
13 electronic certificates of compliance for those vehicles without performing bona fide inspections  
14 of the emission control devices and systems on those vehicles, thereby depriving the People of the  
15 State of California of the protection afforded by the Motor Vehicle Inspection Program.

16 **SIXTH CAUSE FOR DISCIPLINE**

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

18 22. Respondent English has subjected his technician license to discipline under Health  
19 and Safety Code section 44072.2, subdivision (a), in that on or about April 19, 2012, regarding  
20 vehicle numbers 1, 2, 4, 5, 6, and 7 identified in Table 1 of paragraph 16 above, he violated  
21 sections of that Code, as follows:

22 a. **Section 44012, subdivision (a)**: Respondent English failed to determine that all  
23 emission control devices and systems required by law were installed and functioning correctly in  
24 accordance with test procedures.

25 b. **Section 44012, subdivision (f)**: Respondent English failed to perform emission  
26 control tests on those vehicles in accordance with procedures prescribed by the department.

27 c. **Section 44032**: Respondent English failed to perform tests of the emission control  
28 devices and systems on those vehicles in accordance with section 44012 of that Code.



1 state by Travis English, upon a finding that he has, or is, engaged in a course of repeated and  
2 willful violations of the laws and regulations pertaining to an automotive repair dealer.

3 26. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
4 License Number TC 267948 issued to Travis English, doing business as Western Test Only, is  
5 revoked or suspended, any additional license issued under this chapter in the name of said  
6 licensee may be likewise revoked or suspended by the director.

7 27. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist  
8 Technician License Number EA 633842, issued to Travis Aaron English, is revoked or  
9 suspended, any additional license issued under this chapter in the name of said licensee may be  
10 likewise revoked or suspended by the director.

11 **PRAYER**

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

14 1. Revoking, suspending, or placing on probation, Automotive Repair Dealer  
15 Registration Number ARD 267948, issued to Travis English, doing business as Western Test  
16 Only;

17 2. Revoking, suspending, or placing on probation any other Automotive Repair Dealer  
18 Registration issued to Travis English;

19 3. Revoking or suspending Smog Check Test Only Station License Number TC 267948,  
20 issued to Travis English, doing business as Western Test Only;

21 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
22 and Safety Code in the name of Travis English, doing business as Western Test Only, is revoked  
23 or suspended, any additional license issued under this chapter in the name of said licensee may be  
24 likewise revoked or suspended by the director:

25 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
26 EA 633842, issued to Travis Aaron English;

27 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
28 and Safety Code in the name of Travis Aaron English;

1           7.    Ordering Travis Aaron English to pay the Bureau of Automotive Repair the  
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3; and,

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

5  
6 DATED: 8-14-12

*John Wallauch*  
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*DOUG BARRATT*  
*Complainant*

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