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

In the Matter of the Accusation Against:)	Case No. 79/14-34
)	
LYNWOOD SMOG CENTER; AREEN)	DEFAULT DECISION AND
OMAR ALQOUT, Owner)	ORDER
11601 Long Beach Blvd.)	
Lynwood, CA 90262)	[Gov. Code, § 11520]
Automotive Repair Dealer Registration)	
No. ARD 263580)	
Smog Check, Test Only, Station License)	
No. TC 263580,)	
)	
and)	
)	
JAD RIAD ELSAYED)	
12744 Molette Ave.)	
Norwalk, CA 90650)	
Advanced Emission Specialist Technician)	
License No. EA 633950)	
)	
)	
Respondent.)	
_____)	

FINDINGS OF FACT

1. On or about November 22, 2013, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/14-34 against Lynnwood Smog Center; Areen Omar Alqout, Owner

1 (Respondent Lynwood Smog Center) and Jad Riad Elsayed (Respondent Elsayed) before the
2 Director of Consumer Affairs. (Accusation attached as Exhibit A.)

3 2. On or about November 10, 2013, the Bureau of Automotive Repair (Bureau) issued
4 Automotive Repair Dealer Registration No. ARD 263580 to Respondent Lynwood Smog Center.
5 The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
6 charges brought in Accusation No. 79/14-34 and expired on November 30, 2013. This lapse in
7 licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive
8 the Director of her authority to institute or continue this disciplinary proceeding.

9 3. On or about May 31, 2012, the Bureau issued Smog Check Test Only Station License
10 No. TC 263580 to Respondent Lynwood Smog Center. The Smog Check Test Only Station
11 License was in full force and effect at all times relevant to the charges brought in Accusation No.
12 79/14-34 and expired on November 30, 2013. This lapse in licensure, however, pursuant to
13 Business and Professions Code section 118(b) does not deprive the Director of her authority to
14 institute or continue this disciplinary proceeding.

15 4. On or about April 3, 2013, the Bureau of Automotive Repair issued Automotive
16 Repair Dealer Registration Number ARD 272402 to Areen Omar Alqout, doing business as Long
17 Beach Smog Station. The Automotive Repair Dealer Registration was in full force and effect at
18 all times relevant to the charges brought herein and will expire on April 30, 2014, unless renewed.

19 5. On or about April 18, 2013, the Bureau of Automotive Repair issued Smog Check
20 Test Only Station License Number TC 272402 to Areen Omar Alqout, doing business as Long
21 Beach Smog Station. The Smog Check Test Only Station License was in full force and effect at
22 all times relevant to the charges brought herein and will expire on April 30, 2014, unless renewed.

23 6. On or about January 13, 2012, the Bureau of Automotive Repair issued Advanced
24 Emission Specialist Technician License Number EA 633950 to Jad Riad Elsayed (Respondent
25 Elsayed). The Advanced Emission Specialist Technician License was in full force and effect at
26 all times relevant to the charges brought herein and expired on November 30, 2013. If ever
27 renewed, the license will be redesignated as EO 633950 and/or EI 633950.

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1 7. On or about November 25, 2013, Respondent Lynwood Smog Center was served by
2 Certified and First Class Mail copies of Accusation No. 79/14-34, Statement to Respondent,
3 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
4 11507.5, 11507.6, and 11507.7) at Respondent Lynwood Smog Center's address of record which,
5 pursuant to Business and Professions Code section 136, is required to be reported and maintained
6 with the Bureau. Respondent Lynwood Smog Center's address of record was and is: 11601 Long
7 Beach Blvd. Lynwood, CA 90262.

8 8. On or about November 25, 2013, Respondent Elsayed was served by Certified and
9 First Class Mail copies of the Accusation No. 79/14-34, Statement to Respondent, Notice of
10 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
11 11507.6, and 11507.7) at Respondent Elsayed's address of record which, pursuant to Business
12 and Professions Code section 136, is required to be reported and maintained with the Bureau.
13 Respondent Elsayed's address of record was and is: 12744 Molette Ave., Norwalk, CA 90650.

14 9. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
16 124.

17 10. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts
20 of the accusation not expressly admitted. Failure to file a notice of defense shall
21 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
22 may nevertheless grant a hearing.

23 11. Respondents failed to file a Notice of Defense within 15 days after service upon them
24 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
25 79/14-34.

26 12. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

1 e. Health and Safety Code section 44072.2, subdivision (d) (Dishonesty, Fraud or
2 Deceit.)

3 **Respondent Jad Riad Elsayed**

4 a. Health and Safety Code section 44072.2, subdivision (a) (Violations of the Motor
5 Vehicle Inspection Program.)

6 b. Health and Safety Code section 44072.2, subdivision (c) (Violations of Regulations
7 Pursuant to the Motor Vehicle Inspection Program.)

8 c. Health and Safety Code section 44072.2, subdivision (d) (Dishonesty, Fraud or
9 Deceit.)

10 **ORDER**

11 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 263580, Smog
12 Check Test Only Station License No. TC 263580, and Advanced Emission Specialist Technician
13 License No. EA 633950 are revoked.

14 IT IS FURTHER ORDERED that Automotive Dealer Registration No. ARD 272402 and
15 Smog Check Test Only Station License No. TC 272402 are revoked pursuant to Business and
16 Professions Code section 9884.7, subdivision (c) and Health and Safety Code section 44072.8
17 respectively.

18 Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The motion should be sent to the

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1 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
2 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
3 on a showing of good cause, as defined in the statute.

4 This Decision shall become effective on February 28, 2014.

5 It is so ORDERED FEB 07 2014

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DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

10
11 51414254.DOC
DOJ Matter ID:LA2013510083

12 Attachment:
13 Exhibit A: Accusation

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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General.
3 THOMAS L. RINALDI
Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 79/14-34

12 **LYNWOOD SMOG CENTER; AREEN**
OMAR ALQOUT, Owner
13 **11601 Long Beach Blvd.**
Lynwood, CA 90262

A C C U S A T I O N

14 **Automotive Repair Dealer Registration No.**
15 **ARD 263580**
16 **Smog Check Test Only Station License No.**
TC 263580,

17 and

18 **JAD RIAD ELSAYED**
12744 Molette Ave.
19 **Norwalk, CA 90650**

20 **Advanced Emission Specialist Technician**
License No. EA 633950 (to be redesignated
21 upon renewal as EO 633950 and/or EI
22 **633950)**

Respondent.

23
24 Complainant alleges:

25 PARTIES

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

1 **SURVEILLANCE OPERATIONS**

2 17. On or around May 9, and again on May 17, 2013 Respondent Lynwood Smog Center
3 through the actions of Respondent Elsayed and an unlicensed third party performed ten (10) smog
4 inspections that resulted in the issuance of electronic certificates of compliance for the vehicles
5 set forth in Tables 1 and 2, below, certifying that Respondents Lynwood Smog Center and
6 Elsayed had tested and inspected those vehicles and that the vehicles were in compliance with
7 applicable laws and regulations.

8 **Table 1 (May 9, 2013)**

9

Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
1256-1310	1983 Chevrolet C10 Pickup (7A65737)	1994 Ford E350 (6GMD150)	XT707448C

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13 **Table 2 (May 17, 2013)**

14

Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
1510-1521	1997 Ford F150 Pickup (7T13329)	1999 Ford Explorer (No visible license plate)	XT891230C
1525-1535	1999 Ford Mustang (4EYL552)	1999 Ford Explorer (No visible license plate)	XT891231C
1539-1549	1996 Ford F250 Pickup (7W34964)	1999 Ford Explorer (No visible license plate)	XT891232C
1556-1603	2001 Chevrolet Camaro (4RZP891)	1999 Ford Explorer (No visible license plate)	XT891233C
1609-1619	1998 Chevrolet Astro Van (4ZRK732)	1999 Ford Explorer (No visible license plate)	XT891234C
1624-1643	2000 Chevrolet Impala (4LEF524)	1999 Ford Explorer (No visible license plate)	XT891235C
1652-1701	2001 Dodge Ram 1500 Pickup (7R68394)	1999 Ford Explorer (No visible license plate)	XT891236C
1711-1716	2004 Volkswagen Passat (5KFP109)	1999 Ford Explorer (No visible license plate)	XT891237C

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1721-1733	2001 Infinity I30 (4SWZ577)	1999 Ford Explorer (No visible license plate)	XT891238C
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18. In fact, Respondents performed the smog inspections using the clean piping method by utilizing the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance. The vehicles certified were not in the test bay at the time of the smog inspections.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

19. Respondent Lynwood Smog Center has subjected her registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about May 9 and 17, 2013, she made statements which she knew or which by exercise of reasonable care she should have known were untrue or misleading when she issued electronic certificates of compliance for the vehicles set forth in Tables 1 and 2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

20. Respondent Lynwood Smog Center has subjected her registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about May 9 and 17, 2013, she committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 and 2, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

21. Respondent Lynwood Smog Center has subjected her station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 9 and 17, 2013, regarding the vehicles set forth in Tables 1 and 2, above, she violated sections of that Code, as follows:

1 a. **Section 44012, subdivision (a):** Respondent Lynwood Smog Center failed to
2 determine that all emission control devices and systems required by law were installed and
3 functioning correctly in accordance with test procedures.

4 b. **Section 44012, subdivision (f):** Respondent Lynwood Smog Center failed to
5 perform emission control tests on those vehicles in accordance with procedures prescribed by the
6 department.

7 c. **Section 44015, subdivision (b):** Respondent Lynwood Smog Center issued
8 electronic certificates of compliance without properly testing and inspecting the vehicles to
9 determine if they were in compliance with section 44012 of that Code.

10 d. **Section 44059:** Respondent Lynwood Smog Center willfully made false entries for
11 the electronic certificates of compliance by certifying that those vehicles had been inspected as
12 required when, in fact, they had not.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 22. Respondent Lynwood Smog Center has subjected her station license to discipline
16 under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 9 and 17,
17 2013, regarding the vehicles set forth in Tables 1 and 2, above, she violated sections of the
18 California Code of Regulations, title 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent Lynwood Smog Center falsely or
20 fraudulently issued electronic certificates of compliance without performing bona fide inspections
21 of the emission control devices and systems on those vehicles as required by Health and Safety
22 Code section 44012.

23 b. **Section 3340.35, subdivision (c):** Respondent Lynwood Smog Center issued
24 electronic certificates of compliance even though those vehicles had not been inspected in
25 accordance with section 3340.42 of that Code.

26 c. **Section 3340.42:** Respondent Lynwood Smog Center failed to conduct the required
27 smog tests and inspections on those vehicles in accordance with the Bureau's specifications.
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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 23. Respondent Lynwood Smog Center subjected her station license to discipline under
4 Health and Safety Code section 44072.2, subdivision (d), in that on or about May 9 and 17, 2013,
5 regarding the vehicles set forth in Tables 1 and 2, above, she committed acts involving
6 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of
7 compliance for those vehicles without performing bona fide inspections of the emission control
8 devices and systems on those vehicles, thereby depriving the People of the State of California of
9 the protection afforded by the Motor Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

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

12 24. Respondent Elsayed has subjected his technician license(s) to discipline under Health
13 and Safety Code section 44072.2, subdivision (a), in that on or about May 9 and 17, 2013,
14 regarding the vehicles set forth in Tables 1 and 2, he violated sections of that Code, as follows:

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

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

20 c. **Section 44032:** Respondent Elsayed failed to perform tests of the emission control
21 devices and systems on those vehicles in accordance with section 44012 of that Code, in that
22 those vehicles had been clean piped.

23 d. **Section 44059:** Respondent Elsayed willfully made false entries for the electronic
24 certificates of compliance by certifying that those vehicles had been inspected as required when,
25 in fact, they had not.

1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 25. Respondent Elsayed has subjected his technician license(s) to discipline under Health
4 and Safety Code section 44072.2, subdivision (c), in that on or about May 9 and 17, 2013,
5 regarding the vehicles set forth in Tables 1 and 2, he violated sections of the California Code of
6 Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Elsayed falsely or fraudulently issued
8 electronic certificates of compliance without performing bona fide inspections of the emission
9 control devices and systems on those vehicles as required by Health and Safety Code section
10 44012.

11 b. **Section 3340.30, subdivision (a):** Respondent Elsayed failed to inspect and test
12 those vehicles in accordance with Health and Safety Code section 44012.

13 c. **Section 3340.41, subdivision (c):** Respondent Elsayed entered false information into
14 the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering
15 vehicle emission control information for vehicles other than the vehicles being certified.

16 d. **Section 3340.42:** Respondent Elsayed failed to conduct the required smog tests and
17 inspections on those vehicles in accordance with the Bureau's specifications.

18 **EIGHTH CAUSE FOR DISCIPLINE**

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

20 26. Respondent Elsayed has subjected his technician license(s) to discipline under Health
21 and Safety Code section 44072.2, subdivision (d), in that on or about May 9 and 17, 2013, he
22 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
23 electronic certificates of compliance for the vehicles set forth in Tables 1 and 2, above, without
24 performing bona fide inspections of the emission control devices and systems on those vehicles,
25 thereby depriving the People of the State of California of the protection afforded by the Motor
26 Vehicle Inspection Program.

1 **OTHER MATTERS**

2 27. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
3 or permanently or refuse to validate, the registrations for all places of business operated in this
4 state by Areen Omar Alqout, including, but not limited to Long Beach Smog Station (ARD
5 272402) upon a finding that she has, or is, engaged in a course of repeated and willful violations
6 of the laws and regulations pertaining to an automotive repair dealer.

7 28. Under Health and Safety Code section 44072.8, if Station License Number TC
8 263580, issued to Areen Omar Alqout is revoked or suspended, any additional license issued
9 under this chapter in the name of said licensee, including, but not limited to Long Beach Smog
10 Station (TC 272402) may be likewise revoked or suspended by the director.

11 29. Under Health and Safety Code section 44072.8, if Respondent Elsayed's Advanced
12 Emission Specialist Technician License Number EA 633950 (to be redesignated upon renewal as
13 EO 633950 and/or EI 633950) is revoked or suspended, any additional license issued under this
14 chapter in the name of said licensee may be likewise revoked or suspended by the director.

15 **PRAYER**

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

18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
19 263580, issued to Lynwood Smog Center; Areen Omar Alqout, Owner;

20 2. Revoking or suspending Automotive Repair Dealer Registration Number ARD
21 272402, issued to Areen Omar Alqout, doing business as Long Beach Smog Station;

22 3. Revoking or suspending any other automotive repair dealer registration issued in the
23 name of Areen Omar Alqout;

24 4. Revoking or suspending Smog Check Test Only Station License Number TC 263580,
25 issued to Lynwood Smog Center; Areen Omar Alqout, Owner;

26 5. Revoking or suspending Smog Check Test Only Station License Number TC 272402,
27 issued to Areen Omar Alqout, doing business as Long Beach Smog Station;

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- 1 6. Revoking or suspending any additional license issued under this chapter in the name
2 of Areen Omar Alqout;
- 3 7. Revoking or suspending Advanced Emission Specialist Technician License Number
4 EA 633950 (to be redesignated upon renewal as EO 633950 and/or EI 633950), issued to Jad
5 Riad Elsayed;
- 6 8. Revoking or suspending any additional license issued under this chapter in the name
7 of Jad Riad Elsayed;
- 8 9. Ordering Areen Omar Alqout and Jad Riad Elsayed to pay the Bureau of Automotive
9 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
10 Business and Professions Code section 125.3; and
- 11 10. Taking such other and further action as deemed necessary and proper.

12
13 DATED: November 22, 2013 *Patrick Dorais*

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant