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8  
9 **BEFORE THE**  
**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. 79/16-12

13 **C.B. SMOG TEST ONLY**  
14 **SARAH J. RABADI, OWNER**  
15 **3186 Madison Street**  
16 **Riverside, CA 92504**

**ACCUSATION**

(SMOG CHECK)

17 **and**

18 **PO Box 70435**  
19 **Riverside, CA 92513**

20 **Automotive Repair Dealer Reg. No.**  
21 **ARD 269336**  
22 **Smog Check, Test Only, Station License No.**  
23 **TC 269336**

24 **and**

25 **LAWRENCE J. RABADI**  
26 **5150 North Berkeley Avenue**  
27 **San Bernardino, CA 92407**

28 **Smog Check Inspector License No. EO 634466**  
**(formerly Advanced Emission Specialist**  
**Technician License No. EA 634466)**

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 **C. B. Smog Test Only; Sarah J. Rabadi, Owner**

6 2. On or about June 5, 2012, the Director of Consumer Affairs (Director) issued  
7 Automotive Repair Dealer Registration Number ARD 269336 (registration) to Sarah J. Rabadi,  
8 Owner of C. B. Smog Test Only, (Respondent S. Rabadi). Respondent S. Rabadi's registration  
9 was in full force and effect at all times relevant to the charges brought herein and will expire on  
10 June 30, 2016, unless renewed.

11 3. On or about June 18, 2012, the Director issued Smog Check, Test Only, Station  
12 License Number TC 269336 (smog check station license) to Respondent S. Rabadi. The smog  
13 check station license was in full force and effect at all times relevant to the charges brought  
14 herein and will expire on June 30, 2016, unless renewed.

15 **Lawrence J. Rabadi**

16 4. On or about July 9, 2012, the Director issued Advanced Emission Specialist  
17 Technician License Number EA 634466 (technician license) to Lawrence J. Rabadi (Respondent  
18 L. Rabadi). Respondent's advanced emission specialist technician license was due to expire on  
19 February 28, 2014, However it was cancelled on February 26, 2014. Pursuant to California Code  
20 of Regulations, title 16, section 3340.28, subdivision(e), the license was renewed, pursuant to  
21 Respondent's election, as Smog Check Inspector License No. EO 634466, effective February 26,  
22 2014. Respondent L. Rabadi's smog check inspector license will expire on February 28, 2016,  
23 unless renewed.<sup>1</sup>

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26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

**JURISDICTION**

1  
2       5.    This Accusation is brought before the Director under the authority of the following  
3 laws.

4       6.    Section 477 of the Business and Professions Code (Code) provides, in pertinent part,  
5 that "Board" includes "bureau," . . . "License" includes certificate, registration or other means to  
6 engage in a business or profession regulated by the Code.

7       7.    Section 9884.7 of the Code states, in pertinent part:

8           (a) The director, where the automotive repair dealer cannot show there was a  
9 bona fide error, may deny, suspend, revoke, or place on probation the registration  
10 of an automotive repair dealer for any of the following acts or omissions related to  
11 the conduct of the business of the automotive repair dealer, which are done by the  
12 automotive repair dealer or any automotive technician, employee, partner, officer,  
13 or member of the automotive repair dealer.

14           (1) Making or authorizing in any manner or by any means whatever any  
15 statement written or oral which is untrue or misleading, and which is known, or  
16 which by the exercise of reasonable care should be known, to be untrue or  
17 misleading.

18           . . . .

19           (4) Any other conduct which constitutes fraud.

20           . . . .

21           (6) Failure in any material respect to comply with the provisions of this  
22 chapter or regulations adopted pursuant to it.

23           . . . .

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

29       8.    Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid  
30 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
31 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
32 temporarily or permanently.

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1           9.     Section 44002 of the Health and Safety Code (H & S Code) provides, in pertinent  
2 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
3 for enforcing the Motor Vehicle Inspection Program.

4           10.    Section 44072.2 of the H & S Code states, in pertinent part:

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

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

9                   ....

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

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

13                  ....

14           11.    Section 44072.6 of the H & S Code provides, in pertinent part, that the expiration or  
15 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
16 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
17 of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against  
18 the licensee, or to render a decision suspending or revoking the license.

19           12.    Section 44072.8 of the H & S Code states:

20                   "When a license has been revoked or suspended following a hearing under this article, any  
21 additional license issued under this chapter in the name of the licensee may be likewise revoked  
22 or suspended by the director."

23           13.    California Code of Regulations, title 16, (CCR) section 3340.28, subdivision (e),  
24 states:

25                   "Upon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
26 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
27 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

28           ///



1 **REGULATORY PROVISIONS**

2 18. CCR section 3340.24, sub-division (c), states:

3 "The bureau may suspend or revoke the license of or pursue other legal action against a  
4 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
5 certificate of noncompliance."

6 19. CCR section 3340.30, states, in pertinent part:

7 "A smog check technician shall comply with the following requirements at all times while  
8 licensed.

9 "(a) A licensed technician shall inspect, test and repair vehicles in accordance with section  
10 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section  
11 3340.42 of this article.

12 ". . . ."

13 20. CCR section 3340.35, provides, in pertinent part, that a licensed station shall issue a  
14 certificate of compliance . . . to the owner or operator of any vehicle that has been inspected in  
15 accordance with the procedures specified in section 3340.42 of this article and has all the required  
16 emission control equipment and devices installed and functioning correctly.

17 21. CCR 3340.42, provides, in pertinent part, that smog check stations and smog check  
18 technicians shall conduct tests and inspections in accordance with the bureau's BAR-97 Emission  
19 Inspection System Specifications referenced in subsections (a) and (b) of Section 3340.17.

20 22. CCR section 3373, states:

21 No automotive repair dealer or individual in charge shall, in filling out an  
22 estimate, invoice, or work order, or record required to be maintained by section  
23 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or  
information which will cause any such document to be false or misleading, or where  
the tendency or effect thereby would be to mislead or deceive customers,  
prospective customers, or the public.

24 **COST RECOVERY**

25 23. Section 125.3 of the Code provides, in pertinent part, that a Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation or violations of  
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not

1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
2 may be included in a stipulated settlement.

3 **UNDERCOVER OPERATION, OCTOBER 9, 2014**

4 24. On or about October 9, 2014, a Bureau undercover operator (operator) drove a  
5 Bureau documented 1997 Ford (1997 Ford) to C. B. Smog Test Only and requested a smog  
6 inspection. An oxygen sensor bias device had been installed and the exhaust gas recirculation  
7 (EGR) return pipe had been plugged by a lab technician at the Bureau documentation lab, causing  
8 no flow in the EGR system. The installation of the oxygen sensor bias device and the plugging of  
9 the EGR return pipe would cause the vehicle to fail the tail pipe emissions test as a gross polluter  
10 for excessively high levels of Oxides of Nitrogen (NOx). The operator met with Respondent  
11 S. Rabadi's employee Abe Rabadi, a revoked licensee. The operator informed Abe Rabadi that  
12 the check engine light was on and asked if he could smog the vehicle anyway. Abe Rabadi told  
13 the operator he would see what he could do. Abe Rabadi informed the operator the inspection  
14 would cost \$150.00 which the operator agreed to. The operator signed copy of a \$50.00 estimate.  
15 Respondent L. Rabadi's license number was used to perform the inspection and issue electronic  
16 Certificate of Compliance No. [REDACTED], certifying that the vehicle had been tested and  
17 inspected and that it was in compliance with applicable laws and regulations. In fact, the vehicle  
18 could not have passed the smog test, because of the introduced malfunction causing excessively  
19 high tailpipe emissions. The operator paid the \$150.00 and received an invoice in the amount of  
20 \$50.00 and a copy of the VIR. On or about October 28, 2014, a Bureau laboratory technician  
21 inspected and tested the 1997 Ford and found that it still had the installed oxygen sensor bias  
22 device and the plugged EGR return pipe and failed the tailpipe portion of the smog inspection for  
23 excessively high tailpipe emissions. The Bureau determined that the smog inspection on the 1997  
24 Ford resulted in the issuance of a fraudulent certificate of compliance for the 1997 Ford.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 25. Respondent S. Rabadi's registration is subject to disciplinary action pursuant to B &  
28 P Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements

1 which she knew or in the exercise of reasonable care should have known to be untrue or  
2 misleading, as set forth in paragraph 24, above. Respondent certified that the 1997 Ford had  
3 passed the smog inspection and was in compliance with applicable laws and regulations. In fact,  
4 Respondent issued a smog certificate of compliance for the vehicle and did not test or inspect the  
5 vehicle as required by H & S Code section 44012.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 26. Respondent S. Rabadi's registration is subject to disciplinary action pursuant to B &  
9 P Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute  
10 fraud as set forth in paragraph 24, above. Respondent issued an electronic smog certificate of  
11 compliance for the 1997 Ford without performing a bona fide inspection of the emission control  
12 devices and systems on the vehicle, thereby depriving the People of the State of California of the  
13 protection afforded by the Motor Vehicle Inspection Program.

14 **THIRD CAUSE FOR DISCIPLINE**

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

16 27. Respondent S. Rabadi's smog check station license is subject to disciplinary action  
17 pursuant to H & S Code section 44072.2, subdivision (a), in that Respondent failed to comply  
18 with provisions of that Code, as set forth in paragraph 24, above.

19 a. **Section 44012:** Respondent failed to perform emission control tests on the  
20 1997 Ford in accordance with procedures prescribed by the department.

21 b. **Section 44015:** Respondent issued an electronic smog certificate of  
22 compliance for the 1997 Ford without properly testing and inspecting the vehicle to determine if  
23 it was in compliance with H & S Code section 44012.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Regulations)**

26 28. Respondent S. Rabadi's smog check station license is subject to disciplinary action  
27 pursuant to H & S Code section 44072.2, subdivision (c), in that Respondent failed to comply  
28

1 with provisions of California Code of Regulations, title 16, as set forth in paragraph 24, above, as  
2 follows:

3 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
4 electronic smog certificate of compliance for the 1997 Ford.

5 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog  
6 certificate of compliance for the 1997 Ford even though the vehicle had not been inspected in  
7 accordance with section 3340.42.

8 c. **Section 3340.42:** Respondent failed to conduct the required smog test on the  
9 1997 Ford in accordance with the Bureau's specifications.

10 **FIFTH CAUSE FOR DISCIPLINE**

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

12 29. Respondent S. Rabadi's smog check station license is subject to disciplinary action  
13 pursuant to H & S Code section 44072.2, subdivision (d), in that Respondent committed  
14 dishonest, fraudulent or deceitful acts whereby another was injured, as set forth in paragraph 24,  
15 above. Respondent issued an electronic smog certificate of compliance for the 1997 Ford,  
16 without performing a bona fide inspection of the emission control devices and system on the  
17 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
18 Motor Vehicle Inspection Program.

19 **SIXTH CAUSE FOR DISCIPLINE**

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

21 30. Respondent L. Rabadi's technician license is subject to disciplinary action pursuant  
22 to H & S Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
23 following sections of that Code, as set forth in paragraph 24, above.

24 a. **Section 44012, subdivision (a):** Respondent failed to ensure that all emission  
25 control devices and systems required by law for the 1997 Ford were installed and functioning  
26 correctly in accordance with test procedures.

27 b. **Section 44012, subdivision (f):** Respondent failed to perform the emission  
28 control tests on the 1997 Ford in accordance with procedures prescribed by the department.



1 been installed on the driver's side valve cover; by a lab technician at the Bureau documentation  
2 lab. These changes would cause the vehicle to fail the tail pipe emissions test as a gross polluter.  
3 The vehicle would also fail the visual test for the missing catalytic converters, the open  
4 crankcase breather and the non-approved cold air intake system. The operator met with  
5 Respondent S. Rabadi's employee Abe Rabadi, a revoked licensee. The operator informed Abe  
6 Rabadi that he needed some help passing the smog test and asked if he could help him out as he  
7 had helped two years earlier. Abe Rabadi told the operator he would have to charge him \$150.00  
8 as it was getting harder "to do this". The operator signed a copy of a \$50.00 estimate.  
9 Respondent L. Rabadi performed the inspection and issued electronic Certificate of Compliance  
10 No. [REDACTED] certifying that the vehicle had been tested and inspected and that it was in  
11 compliance with applicable laws and regulations. In fact, the vehicle could not have passed the  
12 smog test, because of the introduced malfunction causing excessively high tailpipe emissions and  
13 the modifications to the exhaust system. The operator paid the \$150.00 and received an invoice  
14 in the amount of \$50.00 and a copy of the VIR. On or about January 6, 2015, a Bureau laboratory  
15 technician inspected and tested the 2002 Ford and found that it still had the illegal "off road" "X"  
16 pipe; the non-approved cold air inlet system; and the open air breather. The vehicle failed the  
17 visual part of the smog test for the modified PVC system, the non-approved cold air inlet, and the  
18 missing catalytic converters. The vehicle also failed the smog inspection for excessively high  
19 tailpipe emissions. The Bureau determined that the smog inspection on the 2002 Ford resulted in  
20 the issuance of a fraudulent certificate of compliance for the 2002 Ford.

#### **NINTH CAUSE FOR DISCIPLINE**

##### **(Untrue or Misleading Statements)**

23 34. Respondent S. Rabadi's registration is subject to disciplinary action pursuant to B &  
24 P Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements  
25 which she knew or in the exercise of reasonable care should have known to be untrue or  
26 misleading, as set forth in paragraph 33, above. Respondent certified that the 2002 Ford had  
27 passed the smog inspection and was in compliance with applicable laws and regulations. In fact,  
28

1 Respondent issued a smog certificate of compliance for the vehicle and did not test or inspect the  
2 vehicle as required by H & S Code section 44012.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 35. Respondent S. Rabadi's registration is subject to disciplinary action pursuant to B &  
6 P Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute  
7 fraud as set forth in paragraph 33, above. Respondent issued an electronic smog certificate of  
8 compliance for the 2002 Ford without performing a bona fide inspection of the emission control  
9 devices and systems on the vehicle, thereby depriving the People of the State of California of the  
10 protection afforded by the Motor Vehicle Inspection Program.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

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

13 36. Respondent S. Rabadi's smog check station license is subject to disciplinary action  
14 pursuant to H & S Code section 44072.2, subdivision (a), in that Respondent failed to comply  
15 with provisions of that Code, as set forth in paragraph 33, above.

16 a. **Section 44012:** Respondent failed to perform emission control tests on the  
17 2002 Ford in accordance with procedures prescribed by the department.

18 b. **Section 44015:** Respondent issued an electronic smog certificate of  
19 compliance for the 2002 Ford without properly testing and inspecting the vehicle to determine if  
20 it was in compliance with H & S Code section 44012.

21 **TWELVTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations)**

23 37. Respondent S. Rabadi's smog check station license is subject to disciplinary action  
24 pursuant to H & S Code section 44072.2, subdivision (c), in that Respondent failed to comply  
25 with provisions of California Code of Regulations, title 16, as set forth in paragraph 33, above, as  
26 follows:

27 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
28 electronic smog certificate of compliance for the 2002 Ford.



1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations)**

3 40. Respondent L. Rabadi's technician license is subject to disciplinary action pursuant  
4 to H & S Code section 44072.2, subdivision (c), in that Respondent failed to comply with the  
5 following sections of the California Code of Regulations, title 16, as set forth in paragraph 33,  
6 above.

7 a. **Section 3340.30, subdivision (a):** Respondent failed to perform the emission  
8 control tests on the 2002 Ford in accordance with Health and Safety Code section 44012.

9 b. **Section 3340.42:** Respondent failed to conduct the required smog test on the  
10 2002 Ford in accordance with the Bureau's specifications.

11 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

13 41. Respondent L. Rabadi's technician license is subject to disciplinary action pursuant  
14 to H & S Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
15 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 33, above.  
16 Respondent issued an electronic smog certificate of compliance for the 2002 Ford, without  
17 performing a bona fide inspection of the emission control devices and system on the vehicle,  
18 thereby depriving the People of the State of California of the protection afforded by the Motor  
19 Vehicle Inspection Program.

20 **OTHER MATTERS**

21 42. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke  
22 or place on probation the registration for all places of business operated in this state by  
23 Respondent Sarah J. Rabadi, owner of C. B. Smog Test Only, upon a finding that Respondent  
24 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
25 pertaining to an automotive repair dealer.

26 43. Pursuant to H & S Code section 44072.8, if Smog Check, Test Only, Station License  
27 Number TC 269336, issued to Respondent Sarah J. Rabadi, owner of C. B. Smog Test Only, is  
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1 revoked or suspended, any additional license issued under the same chapter in the name of said  
2 licensee may be likewise revoked or suspended by the Director.

3 44. Pursuant to H & S Code section 44072.8, if Smog Check Inspector License Number  
4 EO 634466, issued to Respondent Lawrence J. Rabadi, is revoked or suspended, any additional  
5 license issued under the same chapter in the name of said licensee may be likewise revoked or  
6 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, suspending or placing on probation Automotive Repair Dealer  
11 Registration No. ARD 269336, issued to Sarah J. Rabadi, Owner, doing business as C. B. Smog  
12 Test Only;

13 2. Revoking, suspending or placing on probation any other automotive repair dealer  
14 registration issued to Sarah J. Rabadi;

15 3. Revoking, suspending or placing on probation Smog Check, Test Only, Station  
16 License Number TC 269336, issued to Sarah J. Rabadi, Owner, doing business as C. B. Smog  
17 Test Only;

18 4. Revoking, suspending or placing on probation any additional license issued under  
19 chapter 5, of the Health and Safety Code in the name of Sarah J. Rabadi;

20 5. Revoking, suspending or placing on probation Smog Check Inspector License  
21 Number EO 634466, (formerly Advanced Emission Specialist Technician License Number EA  
22 634466), issued to Lawrence J. Rabadi;

23 6. Revoking, suspending or placing on probation any additional license issued under  
24 Chapter 5 of the Health and Safety Code in the name of Lawrence J. Rabadi;

25 7. Ordering Respondents Sarah J. Rabadi, owner of C. B. Smog Test Only and  
26 Lawrence J. Rabadi to pay the Director of Consumer Affairs the reasonable costs of the  
27 investigation and enforcement of this case, pursuant to Business and Professions Code section  
28 125.3;

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

DATED: August 13, 2015

*Patrick Dorais*

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

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