

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

In the Matter of the Accusation Against:

PINER AUTO & SMOG
MARYAM SABERI, Owner
Automotive Repair Dealer Registration
No. ARD 208528
Smog Check Station License No. RC 208528
Lamp Station License No. LS 208528
Brake Station License No. BS 208528

AMIR ALI RASOULI
Advanced Emission Specialist Technician
License No. EA 133710

and

DENNIS MICHAEL ANDERSON
Advanced Emission Specialist Technician
License No. EA 094771

Respondents.

Case No. 79/12-107

OAH No. 2012060874

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter only as to respondent Dennis Michael Anderson, Advanced Emission Specialist Technician License No. EA 094771, except that, pursuant to Government Code section 11517(c)(2)(C), the typographical error on page 1, second paragraph, line 1, of the Proposed Decision is corrected as follows:

The name of the Chief of the Bureau of Automotive Repair is corrected to read "John Wallauch" instead of "John Wallach."

This Decision shall become effective 11/30/12

DATED: October 25, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

PINER AUTO & SMOG
MARYAM SABERI, OWNER
Automotive Repair Dealer
Reg. No. ARD 208528
Smog Check Station License No. RC 208528
Lamp Station License No. LS 208528
Brake Station License No. BS 208528,

AMIR ALI RASOULI
Advanced Emission Specialist Technician
License No. 133710
Brake Adjuster License No. BA 133710
Lamp Adjuster License No. LA 133710,

and

DENNIS MICHAEL ANDERSON
Advanced Emission Specialist Technician
License No. EA 094771,

Respondents.

Case No. 79/12-107

OAH No. 2012060874

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on August 27, 2012, in Oakland, California.

Deputy Attorney General Shana A. Bagley represented complainant John Wallach, Chief of the Bureau of Automotive Repair.

Respondent Dennis Michael Anderson was present and represented himself.¹

The matter was submitted for decision on August 27, 2012.

FACTUAL FINDINGS

1. In 2003, the Bureau of Automotive Repair, Department of Consumer Affairs (Bureau), issued Advanced Emission Specialist Technician License No. EA 094771 to respondent Dennis Michael Anderson. This license expires on December 31, 2013, unless renewed.

2. Respondent was previously employed as a smog technician at Piner Auto & Smog in Santa Rosa. He worked part-time at the facility, which is located three blocks from his home. Respondent was friends with another technician at the facility, Amir Ali Rasouli, who was his boss. The incident at issue occurred while respondent was employed at Piner Auto & Smog.

3. A properly performed smog inspection includes a functional inspection, which includes testing the OBD II (on-board diagnostic) system on vehicles manufactured in 1996 or later. During the OBD II functional test, the technician is required to connect an interface cable to the vehicle's on-board computer. The information obtained from the vehicle's on-board computer is communicated to the Bureau's computers. If the vehicle fails the OBD II test, it will fail the overall smog inspection. A vehicle can fail the OBD II test if its computer was recently reset by a mechanic after repair work was performed. In such a circumstance, the vehicle needs to be driven long enough to allow the on-board computer to perform monitoring tests on the vehicle before the vehicle will pass the OBD II test.

4. On January 31, 2011, a 2003 Lexus IS300 was brought to Piner Auto & Smog for a smog inspection. The owner reported that the vehicle had recently undergone mechanical repairs. The Bureau's records establish that three smog inspections were performed on this vehicle on that date. At 12:57 p.m., a smog inspection was conducted on the vehicle by Rasouli. The vehicle failed the OBD II portion of the inspection and the inspection was aborted by Rasouli. The vehicle was reported to the Bureau as having been re-tested at 1:56 p.m. by respondent. A passing certificate was issued to the vehicle following this inspection. A third inspection was conducted on the vehicle by Rasouli at 2:18 p.m. and the vehicle failed the OBD II portion of the inspection.

5. Respondent admits that the passing inspection of the Lexus was made in error. He mistakenly tested the wrong vehicle, a Honda, which had been brought into the facility at

¹ The accusation also named Piner Auto & Smog and Amir Ali Rasouli as respondents in this matter. The allegations against these respondents were resolved by settlement prior to the hearing.

the same time for testing, and reported it as a test on the Lexus. It was a chaotic day at the facility. Respondent confused the invoices for the Honda and the Lexus. Respondent realized immediately that he tested the wrong vehicle. He thought that he could rectify his error by having the car re-tested. He directed Rasouli to re-test the vehicle. After the vehicle failed the final test, the vehicle's owner was not charged for the test under the facility's policy of not charging customers whose vehicles do not pass. Respondent talked to the owner of the vehicle about the vehicle's failure to pass the OBD II portion of the inspection. Respondent instructed the owner to drive the vehicle for a few days and return for subsequent testing.

6. The passing certificate issued to the Lexus was automatically transmitted to the Department of Motor Vehicles and remains in effect. The subsequent failing inspection was not transmitted to the Department of Motor Vehicles. Therefore, the owner of the Lexus was permitted to re-register the vehicle, notwithstanding the fact that it did not in fact pass a properly performed smog inspection. There is no procedure for a technician to cancel an inspection after the certificate has been issued.

7. Respondent has worked in the automobile repair industry since 1980. He owned his own business for 22 years. He wanted to cut back on the hard physical work involved as a mechanic, so he became a smog inspector. He is interested in emissions control because he cares strongly about the environment. He has worked at a number of different smog inspection facilities. He takes the smog inspection program seriously and believes in following the law. Respondent's testimony was forthright and credible.

8. Respondent was often in conflict with Rasouli because he believed that Rasouli was disorganized and sloppy in his work. In the course of the Bureau's investigation of Rasouli, respondent came to believe that Rasouli had lied to him and was dishonest in his work. Respondent stopped working at Piner Auto & Smog and will no longer work with Rasouli.

9. Respondent is currently working at A Plus Test Only in Rohnert Park.

10. Complainant is not seeking cost recovery against respondent.

11. Counsel for complainant acknowledged that the conduct in this case is of the nature which is ordinarily disciplined by a citation rather than an accusation and stated that the appropriate discipline would be a training course rather than revocation or suspension of respondent's license.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Factual Finding 5, it was established that respondent violated Health and Safety Code sections 44072.2, subdivision (a), and 44012, subdivision (f) (failure to determine that emission control systems and devices are installed

and functioning correctly in accordance with test procedures). Cause for discipline against respondent's license was therefore established.

2. By reason of the matters set forth in Factual Findings 5, it was established that respondent violated Health and Safety Code section 44072.2, subdivision (c), and title 16, California Code of Regulations, sections 3340.30, subdivision (a) and 3340.42, subdivision (e)(2)(F) (failure to comply with the Bureau's regulations governing smog inspections.) Cause for discipline against respondent's license was therefore established.

3. The Bureau has established disciplinary guidelines to determine the appropriate penalty to impose on licensees who violate its laws, including factors in aggravation and mitigation. Respondent admits that he made a mistake and improperly performed a smog inspection on the incorrect vehicle. Respondent was not diligent in ascertaining that he had the correct invoice for the vehicle. He attempted to rectify his error by re-testing the vehicle and did not charge the vehicle owner for the smog inspection. He did not intentionally violate the law. Respondent takes his responsibilities as a smog technician seriously. He has been licensed as a smog technician since 2003 with no other disciplinary actions taken against him. He has severed his relationship with the facility at which the incident occurred. Under these circumstances, the appropriate discipline in this case is an eight-hour training course, as was recommended by counsel for complainant.

ORDER

Respondent is ordered to attend and successfully complete an eight-hour Bureau certified training course in diagnosis and repair of emissions systems failures and engine performance, applicable to the class of license held by respondent. Said course shall be completed and proof of completion submitted to the Bureau within 60 days of the effective date of this decision and order.

DATED: 9/25/2012

Karen Reichmann
KAREN REICHMANN
Administrative Law Judge
Office of Administrative Hearings

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

79/12-107

12 In the Matter of the Accusation Against:

Case No.

13 **PINER AUTO & SMOG**
14 **MARYAM SABERI, OWNER**
990 Piner Road
Santa Rosa, CA 95403
Automotive Repair Dealer Reg. No. ARD 208528
15 Smog Check Station License No. RC 208528
Lamp Station License No. LS 208528
16 Brake Station License No. BS 208528.

ACCUSATION

(Smog Check)

17 **AMIR ALI RASOULI**
990 Piner Road
18 Santa Rosa, CA 95403
Advanced Emission Specialist Technician
19 License No. EA 133710
Brake Adjuster License No. BA 133710
20 Lamp Adjuster License No. LA 133710,

21 **and**

22 **DENNIS MICHAEL ANDERSON**
2791 McBride Lane, #141
23 Santa Rosa, CA 95403
Advanced Emission Specialist Technician
24 License No. EA 094771

25 Respondents.

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1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

5 **Piner Auto & Smog; Maryam Saberi, Owner**

6 2. On or about January 26, 2000, the Director of Consumer Affairs ("Director") issued
7 Automotive Repair Dealer Registration Number ARD 208528 ("registration") to Maryam Saberi
8 ("Respondent Saberi"), owner of Piner Auto & Smog. Respondent's registration was in full force
9 and effect at all times relevant to the charges brought herein and will expire on December 31,
10 2012, unless renewed.

11 3. On or about February 3, 2000, the Director issued Smog Check Station License
12 Number RC 208528 to Respondent Saberi. Respondent's smog check station license was in full
13 force and effect at all times relevant to the charges brought herein and will expire on December
14 31, 2012, unless renewed.

15 4. On or about December 4, 2002, the Director issued Lamp Station License Number LS
16 208528 to Respondent Saberi. Respondent's lamp station license was in full force and effect at all
17 times relevant to the charges brought herein and will expire on December 31, 2012, unless
18 renewed.

19 5. On or about December 4, 2002, the Director issued Brake Station License Number
20 BS 208528 to Respondent Saberi. Respondent's brake station license was in full force and effect
21 at all times relevant to the charges brought herein and will expire on December 31, 2012, unless
22 renewed.

23 **Amir Ali Rasouli**

24 6. In or about 2003, the Director issued Advanced Emission Specialist Technician
25 License Number EA 133710 ("technician license") to Amir Ali Rasouli ("Respondent Rasouli" or
26 "Rasouli"). Respondent's technician license was in full force and effect at all times relevant to
27 the charges brought herein and will expire on December 31, 2013, unless renewed.

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1 18. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
2 suspended following a hearing under the provisions of this article [Article 7 (commencing with
3 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
4 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
5 director.”

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

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

11 20. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
12 “license” includes “registration” and “certificate.”

13 21. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

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

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

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

27 COST RECOVERY

28 23. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
the administrative law judge to direct a licensee 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.

VID DATA REVIEW

24. In November 2010, a representative of the Bureau conducted a detailed review of data from the Bureau's VID (vehicle information database) for all smog check inspections performed at Respondent Saberi's facility for the period of January 2010 through October 2011. The representative found that vehicles 1 through 12, identified below, recorded certain diagnostic trouble codes ("code") during the OBD II tests¹. The representative obtained documentation showing that the codes were not applicable to the vehicles. Respondent Rasouli performed the smog inspections on vehicles 1 through 9, 11 and 12; Respondent Anderson performed the smog inspection on vehicle 10.

Date & Time of Inspection	Vehicle Certified & License Number	Certificate No.
1. 05/17/2010 16:59 - 17:16	1998 BMW 7-Series; License No. 5UOA686	NU019137C
2. 06/30/2010 15:49 - 16:40	1998 Ford Windstar; License No. 3VSH802	NU570318C
3. 07/13/2010 16:15 - 17:04	1997 Chevrolet Astro; License No. 4YFC834	NU780841C
4. 07/14/2010 16:29 - 16:39	1999 Nissan Maxima; no plates	NU851354C
5. 07/19/2010 17:01 - 17:16	1996 Ford Explorer; License No. 5TTS580	WL697123C
6. 07/21/2010 12:17 - 12:42	1996 Honda Civic; License No. 5NKJ772	NU851374C
7. 07/21/2010 12:51 - 13:09	1999 Ford E250 Super Van; License No. 5DEX808	WL697129C
8. 07/21/2010 15:00 - 15:10	2003 Chrysler Sebring; License No. 4ZEG241	NU851378C
9. 07/26/2010 17:22 - 17:34	2000 Dodge Caravan; License No. 4NDW713	WL867708C
10. 01/31/2011 13:56 - 14:08	2003 Lexus IS300; License No. 4ZKX055	OA311581C

¹ 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 or monitors, trouble codes, and the MIL. The readiness indicators/monitors ensure that the vehicle's OBD system has properly evaluated the emissions systems of the vehicle. If the vehicle fails the OBD II functional test, it will fail the overall inspection.

Date & Time of Inspection	Vehicle Certified & License Number	Certificate No.
11. 03/29/2011 17:09 - 17:19	1997 Plymouth Voyager; License No. 6NNK890	OC146343C
12. 04/14/2011 13:37 - 14:02	2005 Kia Rio; License No. 6LTJ603	WT887470C

25. The representative also obtained VID data showing that vehicles 1 through 3, 5, 7, 8, and 12, identified in paragraph 24 above, had undergone smog inspections prior and subsequent to the inspections referenced in paragraph 24, that the prior and subsequent inspections were performed by Saberi's facility as well as other smog check facilities, and that the vehicles failed the subsequent and prior inspections due, in part, to the OBD/MIL (malfunction indicator light) functional tests. The VID data indicated that the MIL had been commanded on during the inspections, that the technician performing the inspections had entered data into the Emissions Inspection System ("EIS") showing that the vehicles had failed the MIL functional check, and that certain codes were stored in the vehicles' PCM (power train control module) which were different from the codes stored in the vehicle's PCM during the inspections referenced in paragraph 24. The Bureau concluded that Respondents Rasouli and Anderson performed the smog inspections on the 12 vehicles identified in paragraph 24 above using a different vehicle during the OBD II tests, a method known as "clean plugging",² resulting in the issuance of fraudulent certificates of compliance for the vehicles.

26. In February and December 2011, the representative obtained copies of Respondent Saberi's records pertaining to the smog inspections on vehicles 1 through 4, 6 through 8, and 10 through 12, including estimates, invoices, and vehicle inspection reports. The facility did not produce any records relating to vehicles 5 and 9, although the documents had been requested by the Bureau.

² 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.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 27. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements
5 which she knew or in the exercise of reasonable care should have known to be untrue or
6 misleading, as follows:

7 a. Respondent Saberi's technician, Respondent Rasouli, certified that vehicles 1 through
8 9, 11, and 12, identified in paragraph 24 above, had passed inspection and were in compliance
9 with applicable laws and regulations. In fact, Rasouli conducted the inspections on the vehicles
10 using clean-plugging methods in that he substituted or used a different vehicle(s) during the OBD
11 II functional tests in order to issue smog certificates of compliance for the vehicles, and did not
12 test or inspect the vehicles as required by Health & Saf. Code section 44012.

13 b. Respondent Saberi's technician, Respondent Anderson, certified that vehicle 10,
14 identified in paragraph 24 above, had passed inspection and was in compliance with applicable
15 laws and regulations. In fact, Anderson conducted the inspection on the vehicle using clean-
16 plugging methods in that he substituted or used a different vehicle during the OBD II functional
17 test in order to issue a smog certificate of compliance for the vehicle, and did not test or inspect
18 the vehicle as required by Health & Saf. Code section 44012.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 28. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
22 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting
23 fraud, as follows: Respondent Saberi issued electronic smog certificates of compliance for
24 vehicles 1 through 12, identified in paragraph 24 above, without ensuring that bona fide
25 inspections were performed of the emission control devices and systems on the vehicles, thereby
26 depriving the People of the State of California of the protection afforded by the Motor Vehicle
27 Inspection Program.

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1 Mode Results", which listed the same two codes referenced above. Rasouli told the operator that
2 "everything could be done" for \$500. The operator asked Daniel if the \$500 price included the
3 \$89. Daniel stated that the \$89 was not included. The operator told Daniel that he did not have
4 the \$500 and needed to make a phone call. Rasouli had the operator sign Invoice No. 10252,
5 totaling \$89, and gave him a copy. The invoice included a description of the proposed repairs,
6 the replacement of the MAF sensor and fuel filter and the fuel injection service, but did not state
7 an estimated price for the work. Later, the operator authorized the repairs on the vehicle.

8 40. On September 19, 2011, the operator returned to the facility, paid Rasouli \$500, and
9 received copies of Invoice No. 10280 and a VIR dated September 19, 2011, signed by Rasouli.
10 The VIR indicated that the vehicle passed the smog inspection, including the MIL test, resulting
11 in the issuance of electronic smog Certificate of Compliance No. OG604026C.

12 41. On September 23, 2011, the Bureau inspected the vehicle and found that there were
13 no codes stored in the vehicle's PCM and that only 1 of the 6 OBD II system monitors (self tests)
14 had run to completion. The Bureau performed a California Emissions Inspection Test on the
15 vehicle. The vehicle failed the MIL test and the overall inspection. The Bureau road-tested the
16 vehicle, then performed a diagnostic circuit check and system performance check. The same two
17 codes referenced in paragraph 39 above were stored in the vehicle's PCM and the MIL was
18 illuminated. The Bureau found that the vehicle's fuel pressure was still below specifications and
19 that the fuel injection pressure regulator was still in place on the vehicle. At the conclusion of
20 their investigation, the Bureau determined that Rasouli performed the smog inspection on the
21 vehicle using "clean plugging" methods, resulting in the issuance of a fraudulent certificate of
22 compliance, and that the facility performed unnecessary repairs.

23 THIRTEENTH CAUSE FOR DISCIPLINE

24 (Untrue or Misleading Statements)

25 42. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
26 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements

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

3 a. Respondent Saberi's technician, Respondent Rasouli, certified under penalty of
4 perjury on the VIR dated September 19, 2011, that he performed the smog inspection on the
5 Bureau's 2000 Chevrolet Tahoe in accordance with all Bureau requirements and that the vehicle
6 had passed the inspection and was in compliance with applicable laws and regulations. In fact,
7 Rasouli conducted the inspection on the vehicle using clean-plugging methods in that he
8 substituted or used a different vehicle during the OBD II functional test in order to issue a smog
9 certificate of compliance for the vehicle, and did not test or inspect the vehicle as required by
10 Health & Saf. Code section 44012. Further, all of the required OBD II system monitors had not
11 run to completion and as such, the vehicle would not pass the inspection required by Health &
12 Saf. Code section 44012.

13 b. Respondent Saberi's employees, Respondent Rasouli and/or Daniel, represented to
14 the operator that the MAF sensor on the Bureau's 2000 Chevrolet Tahoe was "bad", the fuel
15 injectors were "dirty", and the fuel filter needed replacement. In fact, the only repair needed on
16 the vehicle was the replacement of the fuel injection pressure regulator. Further, the MAF sensor
17 was functioning properly and was not in need of replacement, the fuel filter was new and was not
18 in need of replacement, and fuel injectors were new and were not in need of cleaning at the time
19 the vehicle was taken to Respondent's facility.

20 c. Respondent Saberi represented on Invoice Nos. 10252 and 10280 that the Bureau's
21 2000 Chevrolet Tahoe had a 4.6 liter 8-cylinder engine when, in fact, the vehicle has a 5.7 liter 8-
22 cylinder engine.

23 d. Respondent Saberi represented on Invoice No. 10280 that the odometer reading on
24 the Bureau's 2000 Chevrolet Tahoe was 113502 miles when, in fact, the odometer reading on the
25 vehicle was 95687 at the time it was taken to Respondent's facility.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 43. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting
5 fraud, as follows:

6 a. Respondent Saberi issued an electronic smog certificate of compliance for the
7 Bureau's 2000 Chevrolet Tahoe without ensuring that a bona fide inspection was performed of
8 the emission control devices and systems on the vehicle, thereby depriving the People of the State
9 of California of the protection afforded by the Motor Vehicle Inspection Program.

10 b. Respondent Saberi's employees, Respondent Rasouli and/or Daniel, made false or
11 misleading representations to the operator regarding the Bureau's 2000 Chevrolet Tahoe, as set
12 forth in subparagraph 42 (b) above, in order to induce the operator to purchase unnecessary
13 repairs on the vehicle, then sold the operator unnecessary repairs, including the replacement of
14 the MAF sensor and fuel filter and the fuel injection service.

15 **FIFTEENTH CAUSE FOR DISCIPLINE**

16 **(Departure from Trade Standards)**

17 44. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
18 Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or
19 disregarded accepted trade standards for good and workmanlike repair without the consent of the
20 owner or the owner's duly authorized representative in the following material respects:

21 Respondent failed to diagnose, or properly diagnose, the defect in the emission control system(s)
22 on the Bureau's 2000 Chevrolet Tahoe, the reduced fuel pressure to the injectors, and failed to
23 replace the fuel injection pressure regulator.

24 **SIXTEENTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Bus. & Prof. Code)**

26 45. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
27 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
28 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent Saberi's

1 employee. Respondent Rasouli, failed to provide the operator with a written estimated price for
2 the additional repairs on the Bureau's 2000 Chevrolet Tahoe, the replacement of the MAF sensor
3 and fuel filter and the fuel injection service.

4 **SEVENTEENTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations)**

6 46. Respondent Saberi's registration is subject to disciplinary action pursuant to Bus. &
7 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent failed to comply with California
8 Code of Regulations, title 16, section 3356, subdivisions (a)(2)(A) and (a)(2)(B), in a material
9 respect, as follows: Respondent failed to record on Invoice No. 10280 the replacement of the fuel
10 filter on the Bureau's 2000 Chevrolet Tahoe.

11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

13 47. Respondent Saberi's smog check station license is subject to disciplinary action
14 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
15 comply with the following sections of that Code:

16 a. **Section 44012, subdivision (f):** Respondent failed to ensure that the OBD II
17 functional test was performed on the Bureau's 2000 Chevrolet Tahoe in accordance with
18 procedures prescribed by the department.

19 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
20 the Bureau's 2000 Chevrolet Tahoe without ensuring that the vehicle was properly tested and
21 inspected to determine if it was in compliance with Health & Saf. Code section 44012.

22 c. **Section 44016:** Respondent failed to perform the diagnosis and repair of the
23 emissions control system(s) on the Bureau's 2000 Chevrolet Tahoe in accordance with
24 established specifications and procedures.

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1 operator to purchase unnecessary repairs on the vehicle, then sold the operator unnecessary
2 repairs, including the replacement of the MAF sensor and fuel filter and the fuel injection service.

3 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

5 53. Respondent Saberi's brake and lamp station licenses are subject to disciplinary action
6 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
7 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 28
8 and 43 above.

9 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

11 54. Respondent Rasouli's lamp and brake adjuster licenses are subject to disciplinary
12 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
13 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
14 paragraphs 35 and 51 above.

15 **MATTERS IN AGGRAVATION**

16 55. To determine the degree of discipline, if any, to be imposed on Respondent Saberi,
17 Complainant alleges as follows: On or about October 28, 2009, the Bureau issued Citation No.
18 C2010-0416 against Respondent for violations of Health & Saf. Code section 44012, subdivision
19 (f) (failure to determine that emission control devices and systems required by State and Federal
20 law are installed and functioning correctly in accordance with test procedures); and California
21 Code of Regulations, title 16, section 3340.35, subdivision (c) (issuing a certificate of compliance
22 to a vehicle that was improperly tested). On or about September 24, 2009, Respondent issued a
23 certificate of compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond
24 specifications. The Bureau assessed civil penalties totaling \$500 against Respondent for the
25 violations. Respondent appealed the citation, but it was affirmed with an effective date of March
26 9, 2011. Respondent paid the citation on March 1, 2011.

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OTHER MATTERS

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2 56. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
3 suspend, revoke, or place on probation the registration for all places of business operated in this
4 state by Respondent Maryam Saberi, owner of Piner Auto & Smog, upon a finding that
5 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
6 regulations pertaining to an automotive repair dealer.

7 57. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
8 Number RC 208528, issued to Respondent Maryam Saberi, owner of Piner Auto & Smog, is
9 revoked or suspended, any additional license issued under this chapter in the name of said
10 licensee may be likewise revoked or suspended by the director.

11 58. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
12 LS 208528, issued to Respondent Maryam Saberi, owner of Piner Auto & Smog, is revoked or
13 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
14 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

15 59. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
16 BS 208528, issued to Respondent Maryam Saberi, owner of Piner Auto & Smog, is revoked or
17 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
18 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

19 60. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist
20 Technician License Number EA 133710, issued to Amir Ali Rasouli, is revoked or suspended,
21 any additional license issued under this chapter in the name of said licensee may be likewise
22 revoked or suspended by the director.

23 61. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number BA
24 133710, issued to Respondent Amir Ali Rasouli, is revoked or suspended, any additional license
25 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
26 licensee may be likewise revoked or suspended by the Director.

27 62. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number LA
28 133710, issued to Respondent Amir Ali Rasouli, is revoked or suspended, any additional license

1 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
2 licensee may be likewise revoked or suspended by the Director.

3 63. Pursuant to Health & Saf. Code section 44072.8. if Advanced Emission Specialist
4 Technician License Number EA 094771, issued to Respondent Dennis Michael Anderson, 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 **PRAYER**

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

10 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
11 208528, issued to Maryam Saberi, owner of Piner Auto & Smog;

12 2. Revoking or suspending any other automotive repair dealer registration issued to
13 Maryam Saberi:

14 3. Revoking or suspending Smog Check Station License Number RC 208528, issued to
15 Maryam Saberi, owner of Piner Auto & Smog;

16 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
17 and Safety Code in the name of Maryam Saberi:

18 5. Revoking or suspending Lamp Station License Number LS 208528, issued to
19 Maryam Saberi, owner of Piner Auto & Smog;

20 6. Revoking or suspending Brake Station License Number BS 208528, issued to
21 Maryam Saberi, owner of Piner Auto & Smog;

22 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
23 Chapter 20.3 of the Business and Professions Code in the name of Maryam Saberi:

24 8. Revoking or suspending Advanced Emission Specialist Technician License Number
25 EA 133710, issued to Amir Ali Rasouli;

26 9. Revoking or suspending any additional license issued under Chapter 5 of the Health
27 and Safety Code in the name of Amir Ali Rasouli;

28 ///

- 1 10. Revoking or suspending Brake Adjuster License Number BA 133710, issued to Amir
2 Ali Rasouli;
- 3 11. Revoking or suspending Lamp Adjuster License Number LA 133710, issued to Amir
4 Ali Rasouli;
- 5 12. Revoking or suspending any additional license issued under Articles 5 and 6 of
6 Chapter 20.3 of the Business and Professions Code in the name of Amir Ali Rasouli;
- 7 13. Revoking or suspending Advanced Emission Specialist Technician License Number
8 EA 094771, issued to Dennis Michael Anderson;
- 9 14. Revoking or suspending any additional license issued under Chapter 5 of the Health
10 and Safety Code in the name of Dennis Michael Anderson;
- 11 15. Ordering Maryam Saberi, owner of Piner Auto & Smog, Amir Ali Rasouli, and
12 Dennis Michael Anderson to pay the Director of Consumer Affairs the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3;
- 15 16. Taking such other and further action as deemed necessary and proper.

17 DATED: 3/30/12

John Wallauch by Doug Balatti
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

28 SF2012401450