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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 79118-17630

14 **JAFAR AHRAR, OWNER**  
15 **DBA J A AUTO SERVICE & SMOG**  
16 **1353 Pine Street, A**  
**Walnut Creek, CA 94596**

**A C C U S A T I O N**

17 **Automotive Repair Dealer Registration No.**  
**ARD 231200**  
18 **Smog Check Station License No. RC 231200**

19 **and**

20 **JAFAR AHRAR**  
21 **926 Bancroft Road**  
**Concord, CA 94518**

22 **Smog Check Inspector (EO) License No.**  
**146922**  
23 **Smog Check Repair Technician (EI) License**  
24 **No. 146922**

25 Respondents.  
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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about January 24, 2004, the Bureau of Automotive Repair issued Automotive  
6 Repair Dealer Registration Number ARD 231200 to Jafar Ahrar, Owner, J A Auto Service &  
7 Smog (Respondent JA Auto). The Automotive Repair Dealer Registration expired on December  
8 31, 2017, and has not been renewed.

9 3. On or about June 13, 2014, the Bureau of Automotive Repair issued Smog Check  
10 Station License Number RC 231200 to Jafar Ahrar, Owner, J A Auto Service & Smog  
11 (Respondent JA Auto). The Smog Check Station License expired on December 31, 2017, and has  
12 not been renewed.

13 4. In 2003, the Bureau issued Advanced Emission Specialist (EA) Technician License  
14 No. 146922 to Jafar Ahrar (Respondent Ahrar), under SB 1997, the biennial Smog Check  
15 Program, implemented on January 1, 1990. License number EA 146922 was due to expire on  
16 February 28, 2013, however was cancelled on September 26, 2013.<sup>1</sup> Pursuant to California Code  
17 of Regulations, title 16, section 3340.28, subdivision (e), said license was renewed pursuant to  
18 Respondent Ahrar's election as Smog Check Inspector (EO) License Number 146922 and Smog  
19 Check Repair Technician (EI) License Number 146922. The Smog Check Inspector License and  
20 Smog Check Repair Technician License were in full force and effect at all times relevant to the  
21 charges brought in this Accusation, and will both expire on February 28, 2021, unless renewed.

22 **JURISDICTION**

23 5.e This Accusation is brought before the Director of the Department of Consumer  
24 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

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

1       6.o   Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valido  
2 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinaryo  
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
4 temporarily or permanently.

5       7.o   Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"o  
6 "commission," "committee," "department," "division," "examining committee," "program," and  
7 "agency." "License" includes certificate, registration or other means to engage in a business or  
8 profession regulated by the Code.

9       8.o   Section 44002 of the Health and Safety Code provides, in pertinent part, that theo  
10 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
11 the Motor Vehicle Inspection Program.

## 12                   **STATUTORY AND REGULATORY PROVISIONS**

13       9.    Section 44012 of the Health and Safety Code states:

14       "The test at the smog check stations shall be performed in accordance with procedures  
15 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded  
16 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,  
17 and shall ensure all of the following:

18       "(a) Emission control systems required by state and federal law are reducing excess  
19 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of  
20 Section 44013.

21       "(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of  
22 the vehicle's emission control system.

23       "(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of  
24 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded  
25 mode are tested in accordance with procedures prescribed by the department. In determining  
26 how loaded mode and evaporative emissions testing shall be conducted, the department shall  
27 ensure that the emission reduction targets for the enhanced program are met.

de “(d) For other than diesel-powered vehicles, the vehicle’s fuel evaporative system and  
2 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic  
3 compound emissions, in accordance with procedures prescribed by the department.

4 “(e) For diesel-powered vehicles, if the department determines that the inclusion of those  
5 vehicles is technologically and economically feasible, a visual inspection is made of emission  
6 control devices and the vehicle’s exhaust emissions in an idle mode or loaded mode are tested in  
7 accordance with procedures prescribed by the department. The test may include testing of  
8 emissions of any or all of the pollutants specified in subdivision (c) and, upon the adoption of  
9 applicable standards, measurement of emissions of smoke or particulates, or both.

10 “(f) A visual or functional check is made of emission control devices specified by the  
11 department, including the catalytic converter in those instances in which the department  
12 determines it to be necessary to meet the findings of Section 44001. The visual or functional  
13 check shall be performed in accordance with procedures prescribed by the department.

14 “(g) A determination as to whether the motor vehicle complies with the emission standards  
15 for that vehicle’s class and model-year as prescribed by the department.

16 “(h) The test procedures may authorize smog check stations to refuse the testing of a  
17 vehicle that would be unsafe to test, or that cannot physically be inspected, as specified by the  
18 department by regulation. The refusal to test a vehicle for those reasons shall not excuse or  
19 exempt the vehicle from compliance with all applicable requirements of this chapter.”

20 10.e Section 44032 of the Health and Safety Code states:

21 “No person shall perform, for compensation, tests or repairs of emission control devices or  
22 systems of motor vehicles required by this chapter unless the person performing the test or repair  
23 is a qualified smog check technician and the test or repair is performed at a licensed smog check  
24 station. Qualified technicians shall perform tests of emission control devices and systems in  
25 accordance with Section 44012.”

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1 11.e Section 44072.2 of the Health and Safety Code states, in pertinent part:e

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

5 “(a) Violates any section of this chapter and the regulations adopted pursuant to it, which  
6 related to the licensed activities.

7 . . .

8 “(c) Violates any of the regulations adopted by the director pursuant to this chapter.”

9 12.e California Code of Regulations, title 16, section 3340.30, subdivision (a), states:e

10 “A smog check technician shall comply with the following requirements at all times while  
11 licensed.

12 “(a) A licensed technician shall inspect, test and repair vehicles in accordance with section  
13 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section  
14 3340.42 of this article.”

15 13.e California Code of Regulations, title 16, section 3340.41, subdivision (c), states:e

16 “(c) No person shall enter into the emissions inspection system any vehicle identification  
17 information or emission control system identification data for any vehicle other than the one  
18 being tested. Nor shall any person knowingly enter into the emissions inspection system any false  
19 information about the vehicle being tested.”

20 14.e California Code of Regulations, title 16, section 3340.42, states, in pertinent part:e

21 “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by  
22 section 3340.45.

23 . . .

24 “(b) In addition to subsection (a), all vehicles subject to the smog check program shall  
25 receive the following:

26 “(1) A visual inspection of emission control components and systems to verify the vehicle’s  
27 emission control systems are properly installed.  
28

1 “(2) A functional inspection of emission control systems as specified in the Smog Check  
20 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper  
30 operation.”

40 15.o California Code of Regulations, title 16, section 3340.45 states:o

50 “(a) All Smog Check inspections shall be performed in accordance with requirements and  
6 procedures prescribed in the following:

7 “(1) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This  
8 manual became effective on or after January 1, 2013. This manual shall remain in effect until  
9 subparagraph (2) is implemented.

10 “(2) Smog Check Manual, dated November 2, 2017, which is hereby incorporated by  
11 reference. This manual shall become effective on August 2, 2018.”

## 12 **COST RECOVERY**

13 16.o Section 125.3 of the Code provides, in pertinent part, that a Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

## 17 **UNDERCOVER OPERATION – OCTOBER 9, 2018**

18 17.o Prior to October 9, 2018, a Bureau Representative, CBN, rendered the Exhaust Gas  
19 Recirculation (EGR) system on the Bureau’s 1990 Pontiac inoperable so that the Pontiac could  
20 not pass a properly performed smog check inspection. CBN performed a smog check inspection  
21 on the Pontiac, and it failed due to a functional EGR failure.

22 18.o On October 9, 2018, an operator from the Bureau drove the Pontiac to A Perfecto  
23 Smog in Concord, California, and requested a smog inspection. The operator observed  
24 Respondent Ahrar perform the smog inspection on the Pontiac. After the inspection was  
25 completed, the operator paid \$158.20, and was provided an invoice and a Vehicle Inspection  
26 Report (VIR). The VIR and BAR97 Test Detail retrieved from the BAR’s Vehicle Information  
27 Database (VID) show that a Smog Certificate of Compliance was issued to the Pontiac by A  
28 Perfect Smog and Respondent Ahrar. The VIR and BAR97 Test Detail indicate that Respondent

1 Ahrar entered "Pass" into the BAR97 for the Functional EGR check, when in fact, he should have  
2 entered "Fail." Respondent Ahrar certified under penalty of perjury that the inspection was  
3 performed in accordance with all Bureau requirements, and that the information listed on the VIR  
4 was true and accurate, when in fact it was not.

5 19.e After the undercover operation, CBN re-inspected the Pontiac and performed a smoge  
6 check inspection. CBN verified that the Pontiac still failed the smog check inspection due to a  
7 functional EGR failure.

## 8 **RESPONDENT AHRAR**

### 9 **FIRST CAUSE FOR DISCIPLINE** 10 **(Violation of Motor Vehicle Inspection Program)**

11 20.e Respondent Ahrar has subjected his smog check inspector license and smog checke  
12 repair technician license to discipline in that he violated sections of the Health and Safety Code  
13 when he caused a Smog Check Certificate of Compliance to be issued to a Bureau undercover  
14 vehicle with an inoperative EGR system, as set forth in paragraphs 17 through 19, above. (Health  
15 & Saf. Code, § 44072.2, subd. (a).) The circumstances are as follows:

16 a.e **Health & Saf. Code, § 44012, subd. (f):** Respondent Ahrar failed to follow teste  
17 procedures in accordance with the OIS specifications and failed to perform a visual and/or  
18 functional inspection of required equipment.

19 b. **Health & Saf. Code, § 44032:** Respondent Ahrar failed to ensure that the emissione  
20 control tests were performed in accordance with the procedures prescribed by the department.

21 c.e **Health & Saf. Code, § 44059:** Respondent Ahrar made a false statement on ae  
22 certificate of compliance when he caused a certificate of compliance to be issued to a vehicle with  
23 an inoperative EGR system.

### 24 **SECOND CAUSE FOR DISCIPLINE** 25 **(Violation of Regulations)**

26 21.e Respondent Ahrar has subjected his smog check inspector license and smog checke  
27 repair technician license to discipline in that he violated the regulations adopted pursuant to the  
28 Motor Vehicle Inspection program when he caused a Smog Check Certificate of Compliance to

1 be issued to a Bureau undercover vehicle with an inoperative EGR system, as set forth in  
2 paragraphs 17 through 19, above. (Health & Saf. Code, § 44072.2, subd. (c).) The circumstances  
3 are as follows:

4e a. **Cal. Code Regs., tit. 16, § 3340.30, subd. (a):** Respondent Ahrar failed to properly  
5 inspect a BAR undercover vehicle with an inoperable EGR system in accordance with Health &  
6 Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section  
7 3340.42.

8 b. **Cal. Code Regs., tit. 16, § 3340.41, subd. (c):** Respondent Ahrar entered false  
9 information into State of California computer database and caused a fraudulent Certificate of  
10 Compliance to be issued.

11 c. **Cal. Code Regs., tit. 16, § 3340.42, subd. (b)(2):** Respondent Ahrar failed to  
12 perform a functional inspection on the Bureau undercover vehicle to verify that the vehicle's  
13 emission control systems were functioning properly.

14 d. **Cal. Code Regs., tit. 16, § 3340.45, subd. (a)(2):** Respondent failed to inspect the  
15 Bureau undercover vehicle in accordance with the smog check manual referenced in California  
16 Code of Regulations, title 16, section 3340.45.

17 **RESPONDENT JA AUTO:**

18 **CAUSE FOR DISCIPLINE**  
19 **(Failure to Comply with Automotive Repair Act)**

20 22.e Respondent JA Auto has subjected its smog station license to disciplinary action in  
21 that it violated the Health and Safety Code. (Health & Saf. Code, § 44072.2, subd. (a).) The  
22 circumstances are as follows:

23 a. **Health & Safety Code, § 44050, subd. (e):** Respondent JA Auto failed to comply  
24 with payment of an administrative fine issued by the department. Specifically, on or about  
25 December 30, 2016, the Bureau issued Citation C2016-2471 in the amount of \$3,000 to  
26 Respondent JA Auto for failing to perform a visual/functional test of emission control devices  
27 according to the procedures prescribed by the department (Health & Saf. Code, § 44012, subd.  
28 (f)). Following a Citation Service Conference, Respondent JA Auto appealed the citation on



1 February 16, 2017. Citation C2016-2471 was affirmed on May 17, 2018, and became effective  
2 on that date. Respondent JA Auto has not paid the citation.

### 3 PRIOR CITATIONS

4 23.e To determine the degree of discipline, if any, to be imposed on Respondent JA Auto,e  
5 Complainant alleges that Respondent JA Auto has received six prior citations as follows:

6 a.e On or about August 15, 2008, the Bureau issued Citation C09-0164 in the amount of e  
7 \$500 to Respondent JA Auto for failing to perform a visual/functional test of emission control  
8 devices according to the procedures prescribed by the department (Health & Saf. Code, § 44012,  
9 subd. (f)), and issuing a certificate of compliance to a vehicle that was improperly tested. (Cal.  
10 Code of Regs., tit. 16, § 3340.35, subd. (c)). Respondent JA Auto paid the citation on September  
11 29, 2008.

12 b.e On or about December 9, 2008, the Bureau issued Citation C09-0697 in the amount e  
13 of \$1,000 to Respondent JA Auto for failing to perform a visual/functional test of emission  
14 control devices according to the procedures prescribed by the department (Health & Saf. Code, §  
15 44012, subd. (f)), and issuing a certificate of compliance to a vehicle that was improperly tested  
16 (Cal. Code of Regs., tit. 16, § 3340.35, subd. (c)). Respondent JA Auto paid the citation on  
17 January 14, 2009.

18 c. On or about May 1, 2009, the Bureau issued Citation C09-1265 in the amount of e  
19 \$2,000 to Respondent JA Auto for failing to perform a visual/functional test of emission control  
20 devices according to the procedures prescribed by the department (Health & Saf. Code, § 44012,  
21 subd. (f)), and issuing a certificate of compliance to a vehicle that was improperly tested (Cal.  
22 Code of Regs., tit. 16, § 3340.35, subd. (c)). Respondent paid the citation on June 10, 2009.

23 d.e On or about December 3, 2014, the Bureau issued Citation C2014-1421 in the amount e  
24 of \$1,000 to Respondent JA Auto for failing to perform a visual/functional test of emission  
25 control devices according to the procedures prescribed by the department (Health & Saf. Code, §  
26 44012, subd. (f)). Respondent JA Auto paid the citation on January 21, 2015, and the Decision  
27 became effective on February 6, 2015.

1 e.o On or about August 5, 2015, the Bureau issued Citation C2015-1849 in the amount of o  
2 \$1,500 to Respondent JA Auto for failing to perform a visual/functional test of emission control  
3 devices according to the procedures prescribed by the department (Health & Saf. Code, § 44012,  
4 subd. (f)). Following a Citation Service Conference, Respondent JA Auto appealed the citation  
5 on October 5, 2015. Citation C2015-1849 was affirmed on February 28, 2017, and became  
6 effective on April 7, 2017. Respondent JA Auto paid the citation on June 19, 2017.

7 f.o On or about December 30, 2016, the Bureau issued Citation C2016-2471 in theo  
8 amount of \$3,000 to Respondent JA Auto for failing to perform a visual/functional test of  
9 emission control devices according to the procedures prescribed by the department (Health & Saf.  
10 Code, § 44012, subd. (f)). Following a Citation Service Conference, Respondent JA Auto  
11 appealed the citation on February 16, 2017. Citation C2016-2471 was affirmed on May 17, 2018,  
12 and became effective on that date. Respondent JA Auto has not paid the citation.

13 24.o To determine the degree of discipline, if any, to be imposed on Respondent Ahrar,o  
14 Complainant alleges that Respondent Ahrar has received six prior citations as follows:

15 a.o On or about August 15, 2008, the Bureau issued Citation M09-0165 requiring an 8-  
16 hour training course to Respondent Ahrar for failing to perform a visual/functional test of  
17 emission control devices in accordance with Health & Safety Code section 44012 (Health & Saf.  
18 Code, § 44032), and failing to inspect, test, and repair vehicles in accordance with Health &  
19 Safety Code sections 44012, 44035, and California Code of Regulations, title 16, section 3340.42  
20 (Cal. Code of Regs., tit. 16, § 3340.30, subd. (a)). Respondent Ahrar completed the training on  
21 September 28, 2008.

22 b.o On or about December 9, 2008, the Bureau issued Citation M09-0698 requiring a 16-  
23 hour training to Respondent Ahrar for failing to perform a visual/functional test of emission  
24 control devices in accordance with Health & Safety Code section 44012 (Health & Saf. Code, §  
25 44032), and failing to inspect, test, and repair vehicles in accordance with Health & Safety Code  
26 sections 44012, 44035, and California Code of Regulations, title 16, section 3340.42 (Cal. Code  
27 of Regs., tit. 16, § 3340.30, subd. (a)). Respondent Ahrar completed the training on January 23,  
28 2009.

1 c.o On or about May 1, 2009, the Bureau issued Citation M09-1266 in requiring a 68-  
2 hour training course to Respondent Ahrar for failing to perform a visual/functional test of  
3 emission control devices in accordance with Health & Safety Code section 44012 (Health & Saf.  
4 Code, § 44032), and failing to inspect, test, and repair vehicles in accordance with Health &  
5 Safety Code sections 44012, 44035, and California Code of Regulations, title 16, section 3340.42  
6 (Cal. Code of Regs., tit. 16, § 3340.30, subd. (a)). Respondent Ahrar completed the training on  
7 June 28, 2009.

8 d.o On or about December 3, 2014, the Bureau issued Citation M2014-1422 for an 8-hour  
9 training course to Respondent Ahrar for failing to perform a visual/functional test of emission  
10 control devices in accordance with Health & Safety Code section 44012 (Health & Saf. Code, §  
11 44032). Respondent Ahrar completed the training on January 17, 2015, and the Decision became  
12 effective on February 6, 2015.

13 e.o On or about August 5, 2015, the Bureau issued Citation M2015-1850 with an Ordero  
14 of Abatement to Respondent Ahrar for failing to perform a visual/functional test of emission  
15 control devices in accordance with Health & Safety Code section 44012 (Health & Saf. Code, §  
16 44032). Following a Citation Service Conference, Respondent Ahrar appealed the citation on  
17 October 26, 2015. Citation M2015-1850 became effective on April 7, 2017.

18 f.o On or about December 30, 2016, the Bureau issued Citation M2016-2472 in theo  
19 amount of \$1,000 and requiring a 68-hour training course to Respondent Ahrar for failing to  
20 perform a visual/functional test of emission control devices in accordance with Health & Safety  
21 Code section 44012 (Health & Saf. Code, § 44032). Following a Citation Service Conference,  
22 Respondent Ahrar appealed the citation on February 17, 2017. Citation M2016-2472 became  
23 effective on May 17, 2018. Respondent Ahrar paid the citation on May 24, 2018, and completed  
24 the training on June 24, 2018.

## 25 OTHER MATTERS

26 25.o Pursuant to Health and Safety Code section 44072.8, if Jafar Ahrar, Owner, doingo  
27 business as JA Auto Service & Smog, Smog Check Station License Number RC 231200, is  
28 revoked or suspended, any additional license issued under Health and Safety Code, division 26,

1 part 5, chapter 5, in the name of said licensee may be likewise revoked or suspended by the  
2 Director.

3 26.e Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
4 License No. EO 146922 or Smog Check Repair Technician License No. EI 146922, issued to  
5 Respondent Ahrar, is revoked or suspended, any additional license issued under Health and  
6 Safety Code, division 26, part 5, chapter 5, in the name of said licensee, may be likewise revoked  
7 or suspended by the Director.

### 8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
10 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

11 1.e Revoking or suspending Smog Check Station License Number RC 231200, issued to  
12 Jafar Ahrar, Owner, doing business as J A Auto Service & Smog;

13 2.e Revoking or suspending Smog Check Inspector License Number EO 146922, issued  
14 to Jafar Ahrar;

15 3. Revoking or suspending Smog Check Inspector License Number EI 146922, issued to  
16 Jafar Ahrar;

17 4.e Revoking or suspending any additional license issued to Jafar Ahrar;

18 5.e Revoking or suspending any additional license issued under Health and Safety Code,  
19 Division 26, Chapter 5, Part 5, in the name of Jafar Ahrar;

20 6.e Ordering Jafar Ahrar to pay the Bureau of Automotive Repair the reasonable costs of  
21 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
22 125.3; and,

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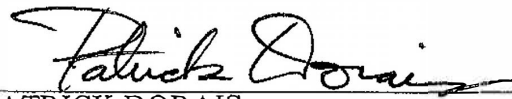
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1           7.    Taking such other and further action as deemed necessary and proper.  
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4   DATED:

April 30, 2019



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

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