

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

In the Matter of the Accusation Against:

Case No.: 79/18-588

SMOGSTER
JOGINDER SINGH, Owner
6928 Reseda Blvd.
Reseda, CA 91335

OAH No.: 2018100325

Automotive Repair Dealer Registration No.
ARD274480
Smog Check Station License No. RC 274480

and

JOGINDER SINGH
9950 Topanga Canyon Blvd., #5
Chatsworth, CA 91311

Smog Check Inspector License No. EO 143313

and

BAO HOANG TANG
21930 Valerio St. #15
Canoga Park, CA 91303

Mailing Address:
7203 Rubio Ave. #205
Lake Balboa, CA 91406

Smog Check Inspector License No. EO 148730
Smog Check Repair Technician License No. EI
148730

Respondents.

//

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on June 17, 2019.

DATED: May 9, 2019



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 BRIAN LEE
Deputy Attorney General
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 79/18-588

13 **SMOGSTER, JOGINDER SINGH**
14 **(OWNER)**

OAH No. 2018100325

15 6928 Reseda Blvd.
Reseda, CA 91335
16 Automotive Repair Dealer Registration No.
ARD 274480
Smog Check Station License No. RC 274480

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **JOGINDER SINGH**

18 9950 Topanga Canyon Blvd., #5
Chatsworth, CA 91311

19 Smog Check Inspector License No. EO 143313

20 **and**

21 **BAO HOANG TANG**

22 21930 Valerio St. #15
Canoga Park, CA 91303

23 Mailing Address:

24 7203 Rubio Ave. #205
Lake Balboa, CA 91406

25 Smog Check Inspector License No. EO 148730
26 Smog Check Repair Technician License No. EI
148730

27 Respondents.
28

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair
5 ("Bureau"). He brought this action solely in his official capacity and is represented in this matter
6 by Xavier Becerra, Attorney General of the State of California, by Brian Lee, Deputy Attorney
7 General.

8 2. Respondents Joginder Singh dba Smogster ("Respondent Smogster"), Joginder Singh
9 ("Respondent Singh"), and Bao Hoang Tang ("Respondent Tang") are represented in this
10 proceeding by attorney William D. Ferreira, Esq., whose address is: 555 California Street, Suite
11 4925, San Francisco, CA 94104.

12 **ARD & Station Licenses**

13 3.t On or about October 11, 2013, the Bureau issued Automotive Repair Dealert
14 Registration Number ARD 274480 to Respondent Smogster. The Automotive Repair Dealer
15 Registration was in full force and effect at all times relevant to the charges brought in Accusation
16 No. 79/18-588 and will expire on October 31, 2019, unless renewed.

17 4.t On or about December 14, 2015, the Bureau issued Smog Check Station Licenset
18 Number RC 274480 to Respondent Smogster. The Smog Check Station License was in full force
19 and effect at all times relevant to the charges brought in Accusation No. 79/18-588 and will
20 expire on October 31, 2019, unless renewed.

21 **Inspector/Repair Technician Licenses**

22 5.t In 2002, the Bureau issued Advanced Emission Specialist License No. EA 143313 tot
23 Respondent Singh. Said license was renewed pursuant to Respondent Singh's election as a Smog
24 Check Inspector (EO) License No. 148730, effective November 25, 2013.¹ The Smog Checkt
25 Inspector license was in full force and effect at all times relevant to the charges brought in
26 Accusation No. 79/18-588, and will expire on June 30, 2019, unless renewed.

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¹ Pursuant to California Code of Regulations, title 16 section 3340.28, subdivision (e).t

6.e In 2004, the Bureau issued Advanced Emission Specialist License No. EA 148730 to Respondent Tang. Said license was renewed pursuant to Respondent Tang's election as a Smog Check Inspector (EO) License No. 148730, effective August 18, 2015, and Smog Check Repair Technician (EI) License No. 148730, effective August 17, 2015. The Smog Check Inspector (EO) and Smog Check Repair Technician (EI) licenses were in full force and effect at all times relevant to the charges brought in Accusation No. 79/18-588, and will expire on July 31, 2019, unless renewed.

JURISDICTION

7. Accusation No. 79/18-588 was filed before the Director, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on May 23, 2018. Respondents timely filed their Notice of Defense contesting the Accusation.

8.e A copy of Accusation No. 79/18-588 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

9.e Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 79/18-588. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

10.e Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

11.e Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

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17.e This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

18.e In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 274480 and Smog Check Station License No. RC 274480, issued to Respondent Joginder Singh dba Smogster, Smog Check Inspector License No. EO 143313 issued to Respondent Joginder Singh, and Smog Check Inspector License No. EO 148730 and Smog Check Repair Technician License No. EI 148730 issued to Bao Hoang Tang, are revoked. However, the revocations are stayed and Respondents are placed on probation for three (3) years on the following terms and conditions.

1.e **Obey All Laws.** During the period of probation, Respondents shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondents.

2. **Quarterly Reporting.** During the period of probation, Respondents shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3.e **Report Financial Interests.** Respondents shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondents or any partners, officers, or owners of any Respondents' facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

1 **4. Access to Examine Vehicles and Records.** Respondents shall provide BARe
2 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
3 inspection, or repairs, up to and including the point of completion. Respondents shall also provide
4 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

5 **5.e Tolling of Probation.** If, during probation, a Respondent leaves the jurisdiction of
6 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
7 of California, that Respondent shall notify BAR in writing within 10 days of the dates of
8 departure and return, and of the dates of cessation and resumption of business in California. All
9 provisions of probation other than cost reimbursement requirements, restitution requirements,
10 training requirements, and that Respondent obey all laws, shall be held in abeyance during any
11 period of time of 30 days or more in which the Respondent is not residing or engaging in business
12 within the jurisdiction of California. All provisions of probation shall recommence on the
13 effective date of resumption of business in California. Any period of time of 30 days or more in
14 which the Respondent is not residing or engaging in business within the jurisdiction of California
15 shall not apply to the reduction of this probationary period or to any period of actual suspension
16 not previously completed. Tolling is not available if business or work relevant to the probationary
17 license or registration is conducted or performed during the tolling period.

18 **6.e Violation of Probation.** If a Respondent violates or fails to comply with the terms
19 and conditions of probation in any respect, the Director, after giving notice and opportunity to be
20 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
21 Once the Respondent is served notice of BAR's intent to set aside the stay, the Director shall
22 maintain jurisdiction, and the period of probation shall be extended until final resolution of the
23 matter.

24 **7.e Maintain Valid License.** Respondents shall, at all times while on probation,
25 maintain a current and active registration and/or license(s) with BAR, including any period during
26 which suspension or probation is tolled. If a Respondent's registration or license is expired at the
27 time the decision becomes effective, the registration or license must be renewed by the
28 Respondent within 30 days of that date. If a Respondent's registration or license expires during a

1 term of probation, by operation of law or otherwise, then upon renewal the Respondent's
2 registration or license shall be subject to any and all terms and conditions of probation not
3 previously satisfied. Failure to maintain a current and active registration and/or license during the
4 period of probation shall also constitute a violation of probation.

5 **8. Cost Recovery.** Respondents shall pay the Bureau of Automotive Repair, jointly and
6 severally, \$2,036.64 for the reasonable costs of the investigation and enforcement of case No.
7 79/18-588. Respondents shall make such payment as follows: Respondents shall make such
8 payment by making monthly payments over a period of twenty-four (24) months. Respondents
9 shall make twenty-three (23) monthly installments of \$84.86 with a final payment (48th monthly
10 installment) of \$84.86 due no later than twelve (12) months prior to the termination of probation.
11 Respondents shall make payment by check or money order payable to the Bureau of Automotive
12 Repair and shall indicate on the check or money order that it is for cost recovery payment for case
13 No. 79/18-588. Any order for payment of cost recovery shall remain in effect whether or not
14 probation is tolled. Probation shall not terminate until full cost recovery payment has been made.
15 BAR reserves the right to pursue any other lawful measures in collecting on the costs ordered and
16 past due, in addition to taking action based upon the violation of probation.

17 **9. Completion of Probation.** Upon successful completion of probation, the affected
18 registration and/or license(s) issued to Respondents will be fully restored or issued without
19 restriction, if Respondents meet all current requirements for registration or licensure and have
20 paid all outstanding fees, monetary penalties, or cost recovery owed to BAR.

21 **10.o License Surrender.** Following the effective date of a decision that orders a stay of
22 invalidation or revocation, if a Respondent ceases business operations or is otherwise unable to
23 satisfy the terms and conditions of probation, the Respondent may request that the stay be
24 vacated. Such request shall be made in writing to BAR. The Director and the BAR Chief reserve
25 the right to evaluate the Respondent's request and to exercise discretion whether to grant the
26 request or take any other action deemed appropriate or reasonable under the circumstances. Upon
27 formal granting of the request, the Director will vacate the stay order and carry out the
28 disciplinary order provided in the decision. The Respondent may not petition the Director for

1 reinstatement of the surrendered registration and/or license, or apply for a new registration or
2 license under the jurisdiction of BAR at any time before the date of the originally scheduled
3 completion of probation. If the Respondent applies to BAR for a registration or license at any
4 time after that date, the Respondent must meet all current requirements for registration or
5 licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the
6 time of surrender.

7 **11.e Notification to Employer.** When performing services that fall within the scope of
8 their license, Respondents shall provide each of their current or future employers a copy of the
9 decision and the underlying Accusation or Statement of Issues before commencing employment.
10 Notification to a Respondents' current employer shall occur no later than the effective date of the
11 decision. Respondents shall submit to BAR, upon request, satisfactory evidence of compliance
12 with this term of probation.

13 **12.e Supervision Requirements.** Respondents shall not delegate any supervisory duties,
14 as they relate to the business activities relevant to the probationary registration and/or license, to
15 another person during the period of probation. Any persons employed by a Respondent to carry
16 out such business activities shall be directly supervised by that Respondent. In the event that a
17 bona fide medical condition arises during the period of probation, which temporarily prevents a
18 Respondent from exercising direct supervision over employees, notice and medical substantiation
19 of the condition shall be submitted to BAR within ten (10) days of the medical affirmation of the
20 condition.

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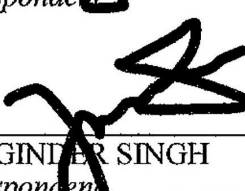
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, William D. Ferreira, Esq. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Station License, and Smog Check Inspector License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 04/17/2019


JOGINDER SINGH DBA SMOGSTER
Respondent

DATED: 04/17/2019


JOGINDER SINGH
Respondent

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, William D. Ferreira, Esq. I understand the stipulation and the effect it will have on my Smog Check Inspector License and Smog Check Repair Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 04/17/2019


BAO HOANG TANG
Respondent


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1 I have read and fully discussed with Respondents Joginder Singh dba Smogster, Joginder
2 Singh, and Bao Hoang Tang the terms and conditions and other matters contained in the above
3 Stipulated Settlement and Disciplinary Order. I approve its form and content.

4
5 DATED: 4-17-19


6 WILLIAM D. FERREIRA, ESQ.
7 *Attorney for Respondents*

8
9 **ENDORSEMENT**

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Director of Consumer Affairs.

12
13 Dated:

Respectfully submitted,

14 XAVIER BECERRA
15 Attorney General of California
16 ARMANDO ZAMBRANO
17 Supervising Deputy Attorney General

18 BRIAN LEE
19 Deputy Attorney General
20 *Attorneys for Complainant*

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22 LA2018600806
23 53328246.docx

Exhibit A

Accusation No. 79/18-588

1 XAVIER BECERRA
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Supervising Deputy Attorney General
3 BRIAN LEE
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6 Facsimile: (213) 897-2804
E-mail: Brian.Lee@doj.ca.gov
7 Attorneys for Complainant

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **1 STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/18-588

13 **SMOGSTER, JOGINDER SINGH**
14 **(OWNER)**
15 6928 Reseda Blvd.
Reseda, CA 91335
16 Automotive Repair Dealer Registration No.
ARD 274480
17 Smog Check Station License No. RC 274480

ACCUSATION

18 **JOGINDER SINGH**
19 9950 Topanga Canyon Blvd., #5
Chatsworth, CA 91311
20 Smog Check Inspector License No. EO 143313

21 and

22 **BAO HOANG TANG**
23 21930 Valerio St. #15
Canoga Park, CA 91303

24 Mailing Address:
25 7203 Rubio Ave. #205
Lake Balboa, CA 91406

26 Smog Check Inspector License No. EO 148730
Smog Check Repair Technician License No. EI
148730

27 Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais ("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 2.A On or about October 11, 2013, the Bureau issued Automotive Repair DealerA
6 Registration Number ARD 274480 to Joginder Singh doing business as Smogster ("Respondent
7 Smogster"). The Automotive Repair Dealer Registration was in full force and effect at all times
8 relevant to the charges brought herein and will expire on October 31, 2018, unless renewed.

9 3.A On or about December 14, 2015, the Bureau issued Smog Check Station LicenseA
10 Number RC 274480 to Respondent Smogster. The Smog Check Station License was in full force
11 and effect at all times relevant to the charges brought herein and will expire on October 31, 2018,
12 unless renewed.

13 4.A On or about December 14, 2015, the Bureau issued STAR Certification toA
14 Respondent Smogster. The STAR Station Certification was in full force and effect at all times
15 relevant to the charges brought herein and will remain active unless the ARD registration and/or
16 the Smog Check Station license is revoked, cancelled, or the licenses become delinquent or
17 certification is invalidated.

18 5.A In 2002, the Bureau issued Advanced Emission Specialist License No. EA 143313 toA
19 Joginder Singh ("Respondent Singh"). Said license was renewed pursuant to Respondent Singh's
20 election as a Smog Check Inspector (EO) License No. 148730, effective November 25, 2013.¹
21 The Smog Check Inspector license was in full force and effect at all times relevant to the charges
22 brought herein, and will expire on June 30, 2019, unless renewed.

23 6.A In 2004, the Bureau issued Advanced Emission Specialist License No. EA 148730 to
24 Bao Hoang Tang ("Respondent Tang"). Said license was renewed pursuant to Respondent
25 Tang's election as a Smog Check Inspector (EO) License No. 148730, effective August 18, 2015,
26 and Smog Check Repair Technician (EI) License No. 148730, effective August 17, 2015. The

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28 ¹ Pursuant to California Code of Regulations, title 16 section 3340.28, subdivision (e).

1 Smog Check Inspector (EO) and Smog Check Repair Technician (EI) licenses were in full force
2 and effect at all times relevant to the charges brought herein, and will expire on July 31, 2019,
3 unless renewed.

4 JURISDICTION

5 7.i This Accusation is brought before the Director of the Department of Consumer
6 Affairs (Director) for the Bureau, under the authority of the following laws.

7 8.i Business and Professions Code ("Bus. & Prof. Code") section 9884.13 provides, in
8 pertinent part, that the expiration of a valid registration shall not deprive the Director of
9 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
10 render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

11 9. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
12 part, that the Director has all the powers and authority granted under the Automotive Repair Act
13 for enforcing the Motor Vehicle Inspection Program.

14 10. Health & Saf. Code section 44072.6 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 disciplinary action.

18 STATUTORY PROVISIONS

19 11.i Bus. & Prof. Code section 9884.7 states, in pertinent part:

20 (a)i The director, where the automotive repair dealer cannot show there
21 was a bona fide error, may refuse to validate, or may invalidate temporarily or
22 permanently, the registration of an automotive repair dealer for any of the following
23 acts or omissions related to the conduct of the business of the automotive repair
24 dealer, which are done by the automotive repair dealer or any automotive technician,
25 employee, partner, officer, or member of the automotive repair dealer.

26 (1)i Making or authorizing in any manner or by any means whatever any
27 statement written or oral which is untrue or misleading, and which is known, or which
28 by the exercise of reasonable care should be known, to be untrue or misleading.

....
(4)i Any other conduct that constitutes fraud.i
....

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

2

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

6 12.t Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" include
7 "bureau," "commission," "committee," "department," "division," "examining committee,"
8 "program," and "agency." "License" includes certificate, registration or other means to engage in
9 a business or profession regulated by the Bus. & Prof. Code.

10 13.t Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog
11 check stations shall be performed in accordance with procedures prescribed by the department.

12 14.t Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate
13 of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
14 44012.

15 15.t Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

20

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

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

24 16.t Health & Saf. Code section 44072.10 states, in pertinent part:

25

26 (c)tThe department shall revoke the license of any smog check technician
27 or station licensee who fraudulently certifies vehicles or participates in the fraudulent
inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
28 the following:

1
2 (4) Intentional or willful violation of this chapter or any regulation,
3 standard, or procedure of the department implementing this chapter . . .

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

7 REGULATORY PROVISIONS

8 18.n California Code of Regulations ("CCR"), title 16, section 3340.24, subdivision (c),
9 states:

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

13 19.n CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
14 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section
15 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
16 of this article."

17 20.n CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
18 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any
19 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
20 this article and has all the required emission control equipment and devices installed and
21 functioning correctly."

22 21.n CCR, title 16, section 3340.41, subdivision (c), states that "[n]o person shall enter
23 into the emissions inspection system any vehicle identification information or emission control
24 system identification data for any vehicle other than the one being tested. Nor shall any person
25 knowingly enter into the emissions inspection system any false information about the vehicle
26 being tested."

27 22.n CCR, title 16, section 3340.42, sets forth specific emissions test methods and
28 procedures which apply to all vehicles inspected in the State of California.

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1 **COST RECOVERY**

2 23.c Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
3 the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **STATEMENT OF FACTS**

7 24.c On March 9, 2015, the Bureau implemented a statewide regulatory change
8 requiring the use of an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model
9 year and newer gas powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under,
10 and 1998 and newer diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data
11 lists differences in Vehicle Identification Numbers (VIN) for vehicles that have received smog
12 inspections, in addition to communication protocol (the language used to communicate) and
13 Parameter ID (PID) differences with vehicles that have been certified correctly that are the same
14 make and model vehicles.

15 25.c A Bureau representative initiated an investigation and reviewed OIS test data for
16 Respondent Smogster. The investigation revealed that the data related to certain vehicles
17 certified by Respondent Smogster contained a pattern of unmistakable discrepancies between the
18 information transmitted during the inspections and documented information known about the
19 subject vehicles. Specifically, a comparison of the data received from the certified vehicles to
20 data from vehicles of the same year, make, and model and/or prior transmitted inspections for the
21 same certified vehicle determined that the data from at least four (4) of the certified vehicles
22 contained the following unmistakable discrepancies: (1) incorrect vehicle communication
23 protocols and/or (2) incorrect PID counts. Also, discrepancies were found with respect to the
24 transmitted eVINS (digitally stored VIN number in the vehicle's Power Control Module and
25 identified by the OIS). These documented discrepancies confirm that the vehicles receiving smog

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certificates from Respondent Smogster were fraudulently tested during the smog inspection using the "clean plugging" method.²

26.a Moreover, the OIS test data showed that Smog Check Technicians Respondent Singha (EO 143313) and Respondent Tang (EO 148730) each performed two of the four (4) fraudulent inspections. Respondent Tang performed fraudulent inspections on April 19, 2007 and October 18, 2017. Respondent Singh performed fraudulent inspections on November 22, 2017 and December 11, 2017.

27.a The following chart illustrates the documented clean plugging activities of a Respondents Smogster, Singh, and Tang between April 19, 2017 and December 11, 2017:

| Table | | | | | |
|-------|-----------|---|-----------------|-------------------------------------|--|
| | Test Date | Vehicle & License No. | Certificate No. | Fraudulent Passing Inspection Data | Expected OBDII Value |
| 1 | 4/19/17 | 2008 Nissan Frontier Crew Cab LE 25356W1 | ZF625272C | eVIN: Not Reported, but Expected | eVIN: 1N6AD09U78C435894 (Expected) |
| | | | | Comm. Protocol: I914 | Comm. Protocol: ICAN11bt5 |
| | | | | PID Count: 22 | PID Count: 43 |
| 2 | 10/18/17 | 2009 Toyota Corolla Base ³ 6EWW713 | HH518302C | eVIN: Not Reported, but Expected | eVIN: 1NXBU40E29Z045314 |
| | | | | Comm. Protocol: I914 | Comm. Protocol: ICAN11bt5 |
| | | | | PID Count: 16 | PID Count: 39 |

² "Clean plugging" refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

³ This vehicle was previously tested at another station on April 29, 2017. At that time, the OIS Test Data for this vehicle show that it transmitted the eVIN as 1NXBU40E29Z045314 and had the expected communication protocol as ICAN11bt5 and transmitted a PID count of 39.

| | Test Date | Vehicle & License No. | Certificate No. | Fraudulent Passing Inspection Data | Expected OBDII Value |
|---|-----------|--|-----------------|---|--|
| 3 | 11/22/17 | 2012 Ford Fiesta SEL ⁴ 6VWM517 | HJ492015C | eVIN: WBAFR7C52CDU78611 (Wrong eVIN) ⁵ | eVIN: 3FADP4CJ5CM219844 (Expected) |
| | | | | Comm. Protocol: ICAN11bt5 | Comm. Protocol: ICAN11bt5 |
| | | | | PID Count: 42 | PID Count: 37 14 or 37 16 |
| 4 | 12/11/17 | 2014 BMW M5 ⁶ 3BAEB975C | HJ992305C | eVIN: 2G61N5S30F9261155 (Wrong eVIN) ⁷ | eVIN: WBSFV9C53ED097825 |
| | | | | Comm. Protocol: ICAN11bt5 | Comm. Protocol: ICAN11bt5 |
| | | | | PID Count: 48 4 5 | PID Count: 51 11 48, 51 13 48, 51 13 48 15, or 51 48 |

28. The data analysis conducted on Respondent Smogster shows that Respondents participated in a scheme to perform at least four (4) fraudulent Smog Check inspections resulting in the issuance of four (4) fraudulent electronic Smog Check Certificates of Compliance between April 19, 2017 and December 11, 2017.

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⁴ This vehicle was previously tested at another station on December 31, 2015. At that time, the OIS Test Data for this vehicle showed that it transmitted the eVIN as 3FADP4CJ5CM219844 and had the expected communication protocol as ICAN11bt5 and transmitted a PID count of 37|16.

⁵ Data from the Vehicle Information Database (VID) shows a 2012 BMW 535i, VIN WBAFR7C52CDU78611, was the vehicle used to generate the fraudulent Smog Certification of Compliance for the 2012 Ford Fiesta.

⁶ This vehicle was previously tested at another station on November 1, 2016. At that time, the OIS Test Data for this vehicle show that it transmitted the eVIN as WBSFV9C53ED097825 and had the expected communication protocol as ICAN11bt5 and transmitted a PID count of 51|11|48.

⁷ Data from the Vehicle Information Database (VID) shows a 2015 Cadillac XTS Luxury Collection, VIN 2G61N5S30F9261155, was the vehicle used to generate the fraudulent Smog Certification of Compliance for the 2014 BMW M5.

1 **CAUSES FOR DISCIPLINE SUBJECTING ARD REGISTRATION TO DISCIPLINARY**
2 **ACTION:**

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 29. Respondent Superior Smogster's Automotive Repair Dealer Registration is subject to
6 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
7 Respondent Smogster made or authorized statements which Respondent Smogster knew or in the
8 exercise of reasonable care should have known to be untrue or misleading, as follows:
9 Respondent certified that the four (4) vehicles identified in paragraph 27 above had passed smog
10 inspection and were in compliance with applicable laws and regulations. In fact, Respondent
11 used clean plugging methods for the four (4) vehicles identified in paragraph 27 above.
12 Respondent substituted or used a different vehicle(s), or another source, during the OBD II
13 functional tests in order to issue smog certificates of compliance for the vehicles. Respondent did
14 not properly test or inspect any of the four (4) vehicles as required by Health & Saf. Code section
15 44012. Complainant refers to, and by this reference incorporates, the allegations contained in
16 paragraphs 24 through 28, above, as though set forth fully herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 30. Respondent Smogster's Automotive Repair Dealer Registration is subject to
20 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
21 Respondent Smogster committed acts that constitute fraud by issuing electronic smog certificates
22 of compliance for the four (4) vehicles identified in paragraph 27 above, without performing bona
23 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
24 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
25 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
26 paragraphs 24 through 28, above, as though set forth fully herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Material Violation of Automotive Repair Act)**

3 31. Respondent Smogster's Automotive Repair Dealer Registration is subject to
4 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
5 Respondent Smogster failed in a material respect to comply with the provisions of this chapter or
6 regulations adopted pursuant to it when he issued electronic certificates of compliance for the
7 four (4) vehicles identified in paragraph 27 above, without performing bona fide inspections of
8 the emission control devices and systems on those vehicles, thereby depriving the People of the
9 State of California of the protection afforded by the Motor Vehicle Inspection Program.
10 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
11 24 through 28, above, as though set forth fully herein.

12 **CAUSES FOR DISCIPLINE SUBJECTING SMOG CHECK STATION LICENSE TO**
13 **DISCIPLINARY ACTION:**

14 **FOURTH CAUSE FOR DISCIPLINE**

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

16 32. Respondent Smogster's Smog Check Station License is subject to disciplinary action
17 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Smogster
18 failed to comply with the following sections of that Code:

19 a.e **Section 44012:** Respondent failed to ensure that the emission control tests were
20 performed on the four (4) vehicles identified in paragraph 27 above, in accordance with
21 procedures prescribed by the department.

22 b.e **Section 44015:** Respondent issued electronic smog certificates of compliance for the
23 four (4) vehicles identified in paragraph 27 above, without ensuring that the vehicles were
24 properly tested and inspected to determine if they were in compliance with Health & Saf. Code
25 section 44012.

26 Complainant refers to, and by this reference incorporates, the allegations contained in
27 paragraphs 24 through 28, above, as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations Pursuant
3 to the Motor Vehicle Inspection Program)

4 33.1 Respondent Smogster's Smog Check Station License is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent Smogster
6 failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a.1 **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for the four (4) vehicles identified in paragraph 27
9 above.

10 b.1 **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
11 compliance for the four (4) vehicles identified in paragraph 27 above, even though the vehicles
12 had not been inspected in accordance with section 3340.42.

13 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
14 into the emissions inspection system for the four (4) vehicles identified in paragraph 27 above.

15 d.1 **Section 3340.42:** Respondent failed to ensure that the required smog tests were
16 conducted on the four (4) vehicles identified in paragraph 27 above, in accordance with the
17 Bureau's specifications.

18 Complainant refers to, and by this reference incorporates, the allegations contained in
19 paragraphs 24 through 28, above, as though set forth fully herein.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Dishonesty, Fraud or Deceit)

22 34.1 Respondent Smogster's Smog Check Station License is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent Smogster
24 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing
25 electronic smog certificates of compliance for the four (4) vehicles identified in paragraph 27
26 above, without performing bona fide inspections of the emission control devices and systems on
27 the vehicles, thereby depriving the People of the State of California of the protection afforded by

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1 the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates,
2 the allegations contained in paragraphs 24 through 28, above, as though set forth fully herein.

3 **CAUSES FOR DISCIPLINE SUBJECTING SMOG CHECK INSPECTOR LICENSE**
4 **AND SMOG CHECK REPAIR TECHNICIAN LICENSE TO DISCIPLINARY ACTION:**

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 35.t Respondent Tang and Respondent Singh's Smog Check Inspector Licenses, alongt
8 with Respondent Tang's Smog Check Repair Technician License, are subject to disciplinary
9 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that they failed to
10 comply with section 44012 of that Code in a material respect, as follows: Respondents Tang and
11 Singh each failed to perform the emission control tests on two of the four (4) vehicles identified
12 in paragraph 27 above, in accordance with procedures prescribed by the department.

13 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
14 24 through 28, above, as though set forth fully herein.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant**
17 **to the Motor Vehicle Inspection Program)**

18 36.t Respondent Tang and Respondent Singh's Smog Check Inspector Licenses, alongt
19 with Respondent Tang's Smog Check Repair Technician License, are subject to disciplinary
20 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that they failed to
21 comply with provisions of California Code of Regulations, title 16, as follows:

22 a.t **Section 3340.24, subdivision (c):** Respondents Tang and Singh each falsely ort
23 fraudulently issued electronic smog certificates of compliance for two of the four (4) vehicles
24 identified in paragraph 27 above.

25 b.t **Section 3340.30, subdivision (a):** Respondents Tang and Singh each failed tot
26 inspect and test two of the four (4) vehicles identified in paragraph 27 above, in accordance with
27 Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16,
28 section 3340.42.

1 c.m. **Section 3340.41, subdivision (c):** Respondents Tang and Singh each knowingly
2 entered false information into the emissions inspection system for two of the four (4) vehicles
3 identified in paragraph 27 above.

4 d.m. **Section 3340.42:** Respondents Tang and Singh each failed to conduct the required
5 smog tests on two of the four (4) vehicles identified in paragraph 27 above, in accordance with
6 the Bureau's specifications.

7 Complainant refers to, and by this reference incorporates, the allegations contained in
8 paragraphs 24 through 28, above, as though set forth fully herein.

9 **NINTH CAUSE FOR DISCIPLINE**

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

11 37. Respondent Tang and Respondent Singh's Smog Check Inspector Licenses, along
12 with Respondent Tang's Smog Check Repair Technician License, are subject to disciplinary
13 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondents Tang
14 and Singh committed dishonest, fraudulent, or deceitful acts whereby another was injured by each
15 issuing electronic smog certificates of compliance for two of the four (4) vehicles identified in
16 paragraph 27 above, without performing bona fide inspections of the emission control devices
17 and systems on the vehicles, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
19 reference incorporates, the allegations contained in paragraphs 24 through 28, above, as though
20 set forth fully herein.

21 **DISCIPLINARY CONSIDERATIONS AS TO RESPONDENT SMOGSTER**

22 38. To determine the degree of discipline as to Respondent Smogster, Complainant
23 alleges that:

24 a.m. On or about October 30, 2014, the Bureau issued Respondent Smogster Citation #m
25 C2014-1328, for violation of section 44012(f) of the Health and Safety Code, in that Respondent
26 Smogster unlawfully issued Certificate of Compliance [REDACTED] to a Bureau undercover
27 vehicle with missing Air Injection (AIS) System components. The Decision became effective
28 February 13, 2016 and payment was received on February 16, 2016.

1 b. On or about March 6, 2015, the Bureau issued Respondent Smogster Citation #n
2 C2015-0156, for violation of section 44012(f) of the Health and Safety Code, in that Respondent
3 Smogster unlawfully issued Certificate of Compliance [REDACTED] to a Bureau undercover
4 vehicle with a non-functional Exhaust Gas Recirculation Valve. The decision became effective
5 September 21, 2017.

6 **DISCIPLINARY CONSIDERATIONS AS TO RESPONDENT SINGH**

7 39.n To determine the degree of discipline as to Respondent Singh, Complainant alleges
8 that:

9 a.n On or about October 30, 2014, the Bureau issued Respondent Singh Citation #n
10 M2014-1329, for violation of section 44032 of the Health and Safety Code, in that Respondent
11 Singh unlawfully issued Certificate of Compliance [REDACTED] to a Bureau undercover vehicle
12 with missing Air Injection System components. The decision became effective on February 13,
13 2016.

14 b.n On or about March 6, 2015, the Bureau issued Respondent Singh Citation # M2015-
15 0157, for violation of section 44032 of the Health and Safety Code, in that Respondent Singh n
16 unlawfully issued Certificate of Compliance [REDACTED] to a Bureau undercover vehicle with an
17 non-functional Exhaust Gas Recirculation Valve. The decision became effective September 21,
18 2017.

19 **OTHER MATTERS**

20 40.n Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may n
21 suspend, revoke, or place on probation the registration for all places of business operated in this
22 state by Joginder Singh, upon a finding that he has, or is, engaged in a course of repeated and
23 willful violations of the laws and regulations pertaining to an automotive repair dealer.

24 41.n Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License No.n
25 RC 274480, issued to Joginder Singh doing business as Smogster is revoked or suspended
26 following a hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of then
27 Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the
28 Director.

1 42.t Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector Licenset
2 No. EO 143313 issued to Joginder Singh is revoked or suspended following a hearing, any
3 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
4 in the name of said licensee may be likewise revoked or suspended by the Director.

5 43.t Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector Licenset
6 No. EO 148730 and/or Smog Check Repair License No. EI 148730 issued to Bao Hoang Tang is
7 revoked or suspended following a hearing, any additional license issued under Chapter 5 of Part 5
8 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
9 revoked or suspended by the Director.

10 PRAYER

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

13 1.t Revoking or suspending Automotive Repair Dealer Registration Number ARDt
14 274480 issued to Joginder Singh dba Smogster;

15 2.t Revoking or suspending any other automotive repair dealer registration issued tot
16 Joginder Singh;

17 3.t Revoking or suspending Smog Check Station License No. RC 274480, issued tot
18 Joginder Singh dba Smogster;

19 4.t Revoking or suspending Smog Check Inspector License No. EO 143313, issued to t
20 Joginder Singh;

21 5.t Revoking or suspending any additional license issued under Chapter 5 of Part 5 oft
22 Division 26 of the Health and Safety Code in the name of Joginder Singh;

23 6.t Revoking or suspending Smog Check Inspector License No. EO 148730, issued tot
24 t Bao Hoang Tang;

25 7.t Revoking or suspending Smog Check Repair License No. EI 148730, issued to Baot
26 Hoang Tang;

27 8.t Revoking or suspending any additional license issued under Chapter 5 of Part 5 oft
28 Division 26 of the Health and Safety Code in the name of Bao Hoang Tang;

1 9. Ordering Respondents Joginder Singh and Bao Hoang Tang to pay the Bureau the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and

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

May 18, 2018



PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

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