

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

In the Matter of the Accusation Against:

VAHIK NAZARI
434 E. Cypress
Burbank, CA 91501
Smog Check Inspector License No. EO 152956
Smog Check Repair Technician License No.
EI 152956 (Formerly Advanced Emission
Specialist Technician License No. EA
152956),

Respondent.

Case No. 79/12-22

OAH No. 2014041052

DECISION

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

This Decision shall become effective January 23, 2015.

DATED: December 5, 2014



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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Attorneys for Complainant
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 79/12-22

12 **VAHIK NAZARI**
13 **434 E. Cypress**
Burbank, CA 91501
14 Smog Check Inspector License No. EO 152956
Smog Check Repair Technician License No. EI
15 152956 (formerly Advanced Emission Specialist
Technician License No. EA 152956),

OAH No. 2014041052

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.
17

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

20 PARTIES

21 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
22 brought this action solely in his official capacity and is represented in this matter by Kamala D.
23 Harris, Attorney General of the State of California, by Terrence M. Mason, Deputy Attorney
24 General.

25 2. Vahik Nazari ("Respondent") is represented in this proceeding by attorney Jeffrey T.
26 Osborn, whose address is: Osborn & Plasse, 16152 Beach Blvd., Suite 250, Huntington Beach,
27 CA 92647.
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1 the attendance of witnesses and the production of documents; the right to reconsideration and
2 court review of an adverse decision; and all other rights accorded by the California
3 Administrative Procedure Act and other applicable laws.

4 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
5 every right set forth above.

6 CULPABILITY

7 9. Respondent admits the truth of each and every charge and allegation in Accusation
8 No. 79/12-22.

9 10. Respondent agrees that his Smog Check Inspector License and Smog Check Repair
10 Technician License are each subject to discipline. Respondent agrees to be bound by the
11 Director's probationary terms as set forth in the Disciplinary Order below.

12 RESERVATION

13 11. Any admissions made by Respondent herein are made solely for the purpose of
14 resolving the charges in the Accusation and except as provided in this stipulation, may not be
15 used in any other legal proceedings or actions and shall not constitute admissions for any other
16 purpose or proceedings to which the Bureau of Automotive Repair is not a party.

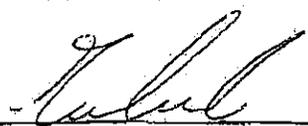
17 CONTINGENCY

18 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or
19 the Director's designee. Respondent understands and agrees that counsel for Complainant and the
20 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
21 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
22 or participation by Respondent or his counsel. By signing the stipulation, Respondent
23 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
24 prior to the time the Director considers and acts upon it. If the Director fails to adopt this
25 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
26 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
27 the parties, and the Director shall not be disqualified from further action by having considered
28 this matter.

1 and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

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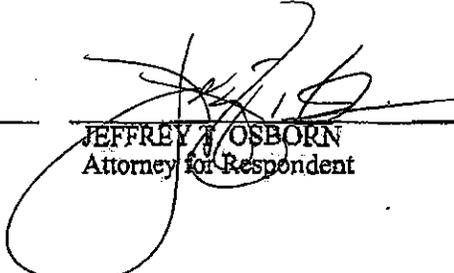
DATED: 10-09-14



VAHIK NAZARI
Respondent

I have read and fully discussed with Respondent Robert Kisang Kwon, owner of Vermont Automobile, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/9/14



JEFFREY J. OSBORN
Attorney for Respondent

ENDORSEMENT

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

DATED: 10/13/14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
Gregory J. Salute
Supervising Deputy Attorney General

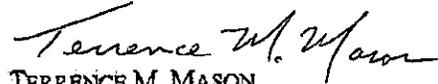

TERRENCE M. MASON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 79/12-22

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

11 In the Matter of the Accusation Against:

Case No. 79/12-22

12 **BURBANK MOTOR SMOG TEST ONLY CENTER**
13 **EDIK NAZARI, OWNER**
14 **549 S. San Fernando Blvd., #C**
Burbank, CA 91502
15 **Automotive Repair Dealer Reg. No. ARD 259879**
Smog Check Test Only Station License No. TC 259879

A C C U S A T I O N

SMOG CHECK

16 and

17 **VAHIK NAZARI**
18 **434 E. Cypress**
Burbank, CA 91501
19 **Advanced Emission Specialist Technician License No.**
EA 152956

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
25 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

26 **Burbank Motor Smog Test Only Center; Edik Nazari, Owner**

27 2. On or about November 9, 2009, the Director of Consumer Affairs ("Director") issued
28 Automotive Repair Dealer Registration Number ARD 259879 ("registration") to Edik Nazari

1 ("Respondent Edik Nazari"), owner of Burbank Motor Smog Test Only Center. Respondent's
2 registration was in full force and effect at all times relevant to the charges brought herein and will
3 expire on September 30, 2012, unless renewed.

4 3. On or about December 3, 2009, the Director issued Smog Check Test Only Station
5 License Number TC 259879 ("smog check station license") to Respondent Edik Nazari.

6 Respondent's smog check station license was in full force and effect at all times relevant to the
7 charges brought herein and will expire on September 30, 2012, unless renewed.

8 **Vahik Nazari**

9 4. In or about 2006, the Director issued Advanced Emission Specialist Technician
10 License Number EA 152956 ("technician license") to Vahik Nazari ("Respondent Vahik Nazari").

11 Respondent's technician license was in full force and effect at all times relevant to the charges
12 brought herein and will expire on January 31, 2013, unless renewed.

13 **JURISDICTION**

14 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
15 the Director may revoke an automotive repair dealer registration.

16 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
17 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
18 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
19 invalidating (suspending or revoking) a registration.

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

23 8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
24 suspension of a license by operation of law, or by order or decision of the Director of Consumer
25 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
26 of jurisdiction to proceed with disciplinary action.

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

2 13. Health & Saf. Code section 44072.10 states, in pertinent part:

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

7 (1) Clean piping, as defined by the department.

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

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

13 **COST RECOVERY**

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

18 **VIDEO SURVEILLANCE OPERATION OF SEPTEMBER 2, 2010**

19 16. On September 2, 2010, between approximately 0931 and 1745 hours, representatives
20 of the Bureau conducted a video surveillance operation of Respondent Edik Nazari's ("E. Nazari")
21 smog check facility. The surveillance video and information obtained from the Bureau's vehicle
22 information database ("VID") revealed that Respondent Vahik Nazari ("V. Nazari") issued an
23 electronic smog certificate of compliance on behalf of E. Nazari, certifying that between 1507
24 and 1522 hours, V. Nazari had tested and inspected a 1998 Ford Explorer, License No. 4CZD428,
25 resulting in the issuance of electronic smog Certificate of Compliance #NW489482C for the
26 vehicle. In fact, V. Nazari conducted the inspection using the exhaust emissions of a 1999 Ford

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1 Explorer, License No. 4WBL916, a method commonly known as clean piping¹, resulting in the
2 issuance of a fraudulent certificate of compliance for the 1998 Ford Explorer. The surveillance
3 video showed that V. Nazari never inserted the exhaust sample probe of the emissions inspection
4 system ("EIS") into the exhaust pipe of the 1998 Ford Explorer at any time during the smog
5 inspection, and that the vehicle's rear wheels were never on the dynamometer rollers during the
6 emissions test. Further, E. Nazari was observed assisting V. Nazari with various other
7 inspections during the surveillance period.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 17. Respondent Edik Nazari's registration is subject to disciplinary action pursuant to
11 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
12 statement which he knew or in the exercise of reasonable care should have known to be untrue or
13 misleading, as follows: Respondent Edik Nazari's technician, Respondent Vahik Nazari, certified
14 that the 1998 Ford Explorer had passed inspection and was in compliance with applicable laws
15 and regulations. In fact, Respondent Vahik Nazari used clean piping methods in order to issue a
16 certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code
17 section 44012.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 18. Respondent Edik Nazari's registration is subject to disciplinary action pursuant to
21 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
22 constitutes fraud by issuing an electronic smog certificate of compliance for the 1998 Ford
23 Explorer without performing a bona fide inspection of the emission control devices and systems
24 on the vehicle, thereby depriving the People of the State of California of the protection afforded
25 by the Motor Vehicle Inspection Program.

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27 ¹ Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t),
28 "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to
cause the EIS to issue a certificate of compliance for another vehicle.

1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 21. Respondent Edik Nazari's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
5 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
6 certificate of compliance for the 1998 Ford Explorer without performing a bona fide inspection of
7 the emission control devices and systems on the vehicle, thereby depriving the People of the State
8 of California of the protection afforded by the Motor Vehicle Inspection Program.

9 **SIXTH CAUSE FOR DISCIPLINE**

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

11 22. Respondent Vahik Nazari's technician license is subject to disciplinary action
12 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
13 comply with provisions of that Code, as follows:

14 a. **Section 44012:** Respondent failed to perform emission control tests on the 1998 Ford
15 Explorer in accordance with procedures prescribed by the department.

16 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the
17 issuance of a fraudulent certificate of compliance for the 1998 Ford Explorer.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Pursuant**
20 **to the Motor Vehicle Inspection Program)**

21 23. Respondent Vahik Nazari's technician license is subject to disciplinary action
22 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
23 comply with provisions of California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
25 electronic smog certificate of compliance for the 1998 Ford Explorer.

26 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 1998
27 Ford Explorer in accordance with Health & Saf. Code sections 44012 and 44035, and California
28 Code of Regulations, title 16, section 3340.42.

1 c. **Section 3340.41, subdivision (c)**: Respondent entered false information into the EIS
2 by entering vehicle identification information or emission control system identification data for a
3 vehicle other than the one being tested.

4 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the 1998
5 Ford Explorer in accordance with the Bureau's specifications.

6 **EIGHTH CAUSE FOR DISCIPLINE**

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

8 24. Respondent Vahik Nazari's technician license is subject to disciplinary action
9 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
10 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
11 certificate of compliance for the 1998 Ford Explorer without performing a bona fide inspection of
12 the emission control devices and systems on the vehicle, thereby depriving the People of the State
13 of California of the protection afforded by the Motor Vehicle Inspection Program.

14 **VIDEO SURVEILLANCE OPERATION OF DECEMBER 23, 2010**

15 25. On December 23, 2010, between approximately 0751 and 1646 hours, representatives
16 of the Bureau conducted a second video surveillance operation of Respondent Edik Nazari's
17 ("E. Nazari") smog check facility. The surveillance video and information obtained from the
18 Bureau's VID revealed that Respondent Vahik Nazari ("V. Nazari") issued an electronic smog
19 certificate of compliance on behalf of E. Nazari, certifying that between 1552 and 1610 hours,
20 V. Nazari had tested and inspected a 1999 Honda Passport, License No. 5PGR899, resulting in
21 the issuance of electronic smog Certificate of Compliance #WR031092C for the vehicle. In fact,
22 V. Nazari had the EIS's OBDII connector/cable attached to the 1998 Ford Explorer during the

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1 OBDII test² on the 1999 Honda Passport, a method known as "clean plugging",³ resulting in the
2 issuance of a fraudulent certificate of compliance for the 1999 Honda Passport. Further, the
3 surveillance video showed that E. Nazari assisted V. Nazari during the smog inspection on the
4 vehicle.

5 **NINTH CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 26. Respondent Edik Nazari's registration is subject to disciplinary action pursuant to
8 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
9 statement which he knew or in the exercise of reasonable care should have known to be untrue or
10 misleading, as follows: Respondent Edik Nazari's technician, Respondent Vahik Nazari, certified
11 that the 1999 Honda Passport had passed inspection and was in compliance with applicable laws
12 and regulations. In fact, Respondent Vahik Nazari conducted the inspection on the 1999 Honda
13 Passport using clean-plugging methods in that he substituted or used the 1998 Ford Explorer
14 during the OBD II functional test in order to issue a smog certificate of compliance for the 1999
15 Honda Passport, and did not test or inspect the 1999 Honda Passport as required by Health & Saf.
16 Code section 44012.

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22 ² The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-
23 97 analyzer. During the OBDII functional test, the technician is required to connect an interface
24 cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside
25 the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the
26 vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the
27 MIL (malfunction indicator light). If the vehicle fails the OBDII functional test, it will fail the
28 overall inspection.

26 ³ "Clean-plugging" is the use of the OBDII readiness monitor status and stored fault code
27 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to
28 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.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 259879, issued to Edik Nazari, owner of Burbank Motor Smog Test Only Center;
2. Revoking or suspending any other automotive repair dealer registration issued to Edik Nazari;
3. Revoking or suspending Smog Check Test Only Station License Number TC 259879, issued to Edik Nazari, owner of Burbank Motor Smog Test Only Center;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Edik Nazari;
5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 152956, issued to Vahik Nazari;
6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Vahik Nazari;
7. Ordering Edik Nazari, owner of Burbank Motor Smog Test Only Center, and Vahik Nazari to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
8. Taking such other and further action as deemed necessary and proper.

DATED: _____

9/16/11



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

LA2011600544