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

In the Matter of the Accusation Against: **DAVINDER SINGH** **3700 White Sands Dr.** **Bakersfield, CA 93309** **Smog Check Inspector License No. EO 153844** **Smog Check Repair Technician License No. EI 153844 (formerly Advanced Emission Specialist Technician License No. EA 153844)** Respondent.	Case No. 79/15-45 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 26, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-45 against Davinder Singh before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. In 2007, the Bureau of Automotive Repair ("Bureau") issued Advanced Emission Specialist Technician License Number EA 153844 to Davinder Singh ("Respondent"). Pursuant

to California Code of Regulations, title 16, section 3340.28, subdivision (e), said license was renewed in 2013 as Smog Check Inspector (EO) License No. 153844 and Smog Check Repair Technician (EI) License No. 153844.[1] The licenses expired on September 30, 2015, and have not been renewed.

3. On or about October 22, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/15-45, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau. Respondent's address of record was and is 3700 White Sands Dr., Bakersfield, CA 93309.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

5. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 79/15-45.

7. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

---

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

8. Pursuant to its authority under Government Code section 11520, the Director after having reviewed the proof of service dated October 22, 2014, signed by CV Talaro, finds Respondent is in default. The Director will take action without further hearing and, based on Accusation, No. 79/15-45, proof of service and on the Affidavit of Bureau Representative Denny Moyer, finds that the allegations in Accusation are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Davinder Singh has subjected his Smog Check Inspector (EO) License No. 153844 and Smog Check Repair Technician (EI) License No. 153844 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

9. The Director of Consumer Affairs is authorized to revoke Respondent's Smog Check Inspector (EO) License and Smog Check Repair Technician (EI) License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the affidavit of Bureau Representative Denny Moyer in this case:

a. Health and Safety Code § 44072.2(a) [Violation of Motor Vehicle Inspection Program Statute];

b. Health and Safety Code § 44072.2(c) [Violation of Motor Vehicle Inspection Program Regulations];

c. Health and Safety Code § 44072.2(d) [Dishonesty, Fraud or Deceit]; and

d. Health and Safety Code § 44072.2(f) [Aid and Abet Unlicensed Activity].

///

///

///

///

///

///

///

///

ORDER

IT IS SO ORDERED that Smog Check Inspector (EO) License No. 153844 and Smog Check Repair Technician (EI) License No. 153844, heretofore issued to Respondent Davinder Singh, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 12, 2016.

It is so ORDERED March 14, 2016

TAMARA COLSON
Assistant General Counsel
Division of Legal Affairs
Department of Consumer Affairs

51823015.DOC
DOJ Matter ID:LA2014612310

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(DAVINDER SINGH and JAY SINGH AKA JOBANJIT SINGH)

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General
WILLIAM D. GARDNER
Deputy Attorney General
State Bar No. 244817
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2114
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **DAVINDER SINGH** **3700 White Sands Dr.** **Bakersfield, CA 93309** **Smog Check Inspector License No. EO 153844** **Smog Check Repair Technician License No. EI 153844 (formerly Advanced Emission Specialist Technician License No. EA 153844)** Respondents.	Case No. 79/15-45 **ACCUSATION** (SMOG CHECK)

Complainant alleges:

PARTIES

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

2. In 2007, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License Number EA 153844 to Davinder Singh. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), said license was renewed in 2013 as Smog Check Inspector (EO) License No. 153844 and Smog Check Repair Technician (EI)

License No. 153844.[1] The licenses were in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

4. Section 44002 of the Health and Safety Code (HSC) provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

13. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

5. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

6. Section 44014, subdivision (a), of the HSC provides that the testing and repair portion of the smog check program shall be conducted only by licensed smog check technicians.

7. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance shall be issued if a vehicle meets the requirements of HSC section 40012.

8. Section 44032 of the HSC provides, in pertinent part, that "[q]ualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012."

9. Section 44059 of the HSC provides:

"The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required

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

by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code."

10. Section 44072.2 of the HSC states, in pertinent part:

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

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

. . .

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

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

. . .

"(f) Aids or abets unlicensed persons to evade the provisions of this chapter . . . ."

REGULATORY PROVISIONS

11. California Code of Regulations ("CCR"), title 16, section 3340.24, subdivision (c), states:

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

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

13. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check station "shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of

this article and has all the required emission control equipment and devices installed and functioning correctly."

14. CCR, title 16, section 3340.41, subdivision (c), provides: "No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested."

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

COST RECOVERY

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

BUREAU INVESTIGATION AND SURVEILLANCE

17. On multiple days between September 19, 2013, and October 14, 2013, the Bureau conducted videotaped surveillance of the T Waller Smog Check station, located at 1700 E. Truxtun Avenue, Bakersfield, California.[2] During the times of surveillance, Bureau representatives observed Respondent performing and assisting in the performance of smog inspections with unlicensed individual Jay Singh.[3] The surveillance operation and information obtained from the Bureau's VID revealed that during the surveillance periods, Respondent engaged in twenty-five (25) illegal smog inspection activities. Specifically, the Bureau's investigation revealed that Respondent and the unlicensed individual Jay Singh repeatedly used the smog inspector license number and access code issued to Timothy Wayne Waller (Waller) to

[2] In 2013, the Bureau filed Accusation No. 79/13-70 against T Waller Smog Check Station and its owner Timothy Wayne Waller alleging fraudulent smog inspections. in that proceeding, respondent Timothy Wayne Waller admitted to all allegations and stipulated to the revocation of his ARD, smog station license and smog inspector license.

[3] Jay Singh, aka Jobanjit Singh, was previously licensed as a smog check technician; however, his license was revoked by the Bureau in 2010 for fraudulent smog inspections.

perform fraudulent inspections that resulted in the issuance of fraudulent certificates of compliance. The details of Respondent's illegal conduct are set forth below.

18. On September 19, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810795C for a 1997 Dodge Caravan, License 3TJL149. An inspection of the 1997 Dodge Caravan was not actually performed, however. Instead, Respondent used the tail pipe emissions from unlicensed individual Singh's 2001 Daewoo, License 6MDP059, in a procedure known as "clean piping" to issue a fraudulent Certificate of Compliance.[4] Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

19. On September 19, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810798C for a 1994 Ford Mustang, License 6PUU353. An inspection of the 1994 Ford Mustang was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2007 Ford Pickup, California License 8K93731, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

20. On September 19, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810799C for a 1999 Cadillac STS, License 6GOH319. An inspection of the 1999 Cadillac STS was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent

[4] "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in compliance or are not present in the smog check area during the time of the certification.

Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

21. On September 19, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810800C for a 1997 BMW 5-Series with no license plate. An inspection of the 1997 BMW 5-Series was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

22. On September 20, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810804C for a 1998 Honda Prelude, License 4XYT283. An inspection of the 1998 Honda Prelude was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

23. On September 20, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810805C for a 1997 Dodge Ram 1500 with no license plate. An inspection of the 1997 Dodge Ram 1500 was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

24. On September 20, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No.

XX810807C for a 2005 Cadillac STS, License 5RLD949. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

25. On September 20, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810808C for a 2006 Chevrolet Trailblazer, License 6WVT302. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

26. On September 23, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810812C for a 2003 Kia Sedona, License 5ZPL671. An inspection of the 2003 Kia Sedona was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 1999 Toyota Corolla, California License 6PUU169, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

27. On September 23, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810813C for a 2000 GMC C1500 Yukon, License 5CIG108. An inspection of the 2000 GMC C1500 Yukon was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 1999 Toyota Corolla, California License 6PUU169, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

28. On September 23, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810815C for a 1990 Acura Integra, License 6DGJ875. An inspection of the 1990 Acura Integra was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 1999 Toyota Corolla, California License 6PUU169, thereby engaging in the illegal conduct

of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

29. On September 24, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810817C for a 1989 Toyota Pickup, License 5Y91766. An inspection of the 1989 Toyota Pickup was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

30. On September 24, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810818C for a 2007 Toyota Camry, License 5WAH327. An inspection of the 2007 Toyota Camry was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

31. On September 24, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810819C for a 1991 Mazda Miata, License 3KVW122. An inspection of the 1991 Mazda Miata was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 1999 Toyota Corolla, California License 6PUU169, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

32. On September 24, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810820C for a 2001 Mazda MPV, License 4LHL661. An

inspection of the 2001 Mazda MPV was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

33. On September 24, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810821C for a 1997 Acura Integra, License 3UPL442. An inspection of the 1997 Acura Integra was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 1999 Toyota Corolla, California License 6PUU169, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

34. On September 26, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810826C for a 2000 Honda Civic, License 6TUX580. An inspection of the 2000 Honda Civic was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

35. On September 26, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XX810827C for a 1995 Toyota Camry, License 6MXW847. An inspection of the 1995 Toyota Camry was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

36. On October 9, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284935C for a 1995 Honda Civic with no license plate. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

37. On October 10, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284941C for a 1994 Mercedes SL600, License 5LMR918. An inspection of the 1994 Mercedes SL600 was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 1999 Buick Regal, California License 4EBP820, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

38. On October 10, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284942C for a 1990 Honda Civic CRX, License 2RZG289. An inspection of the 1990 Honda Civic CRX was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 1999 Buick Regal, California License 4EBP820, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

39. On October 11, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284943C for a 2001 Hyundai Elantra, License 4PZV195. An inspection of the 2001 Hyundai Elantra was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a

///

fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

40. On October 11, 2013, Respondent and the unlicensed individual Singh used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284944C for a 1998 Dodge Dakota, License 63914B1. An inspection of the 1998 Dodge Dakota was not actually performed, however. Instead, Respondent and the unlicensed individual used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

41. On October 12, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284945C for a 2003 Volvo XC90, License 5BWG724. An inspection of the 2003 Volvo XC90 was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

42. On October 12, 2013, Respondent used Waller's inspector license information and pin to perform a smog inspection that resulted in the issuance of Certificate of Compliance No. XZ284946C for a 1996 Chevrolet C1500, License 7D46320. An inspection of the 1996 Chevrolet C1500 was not actually performed, however. Instead, Respondent used the tail pipe emissions from a 2001 Daewoo, California License 6MDP059, thereby engaging in the illegal conduct of clean piping to issue a fraudulent Certificate of Compliance. Waller was not in or around the test bay or the smog station at the time of the inspection and did not participate in the inspection.

///

///

///

FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

43. Respondent has subjected his smog check inspector license to discipline under HSC section 44072.2, subdivision (a), in that between September 19, 2013, and October 12, 2013, Respondent violated the following sections of the HSC with respect to the inspection of certain vehicles:

a. **Section 44012**: Respondent failed to ensure that the emission control tests were performed on those vehicles in accordance with procedures prescribed by the department.

b. **Section 44014**: Respondent allowed unlicensed (and previously revoked) individual Jay Singh to perform emission control tests on certain vehicles in violation of procedures prescribed by the department.

c. **Section 44015**: Respondent issued electronic certificates of compliance without properly testing and inspecting the vehicles to determine if they were in compliance with section 44012 of the HSC.

d. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles had been clean piped.

e. **Section 44059**: Respondent willfully made false entries for the electronic certificates of compliance by certifying that those vehicles had been inspected as required when, in fact, they had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 17 through 42, inclusive, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

44. Respondent has subjected his smog check inspector license to discipline under HSC section 44072.2, subdivision (c), in that between September 19, 2013, and October 12, 2013, Respondent violated the following sections of the CCR, title 16, with respect to the inspection of certain vehicles:

a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued electronic certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles as required by HSC section 44012.

b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those vehicles in accordance with HSC section 44012.

c. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS for the electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified.

d. **Section 3340.42:** Respondent failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 17 through 42, inclusive, as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

45. Respondent has subjected his smog check inspector license to discipline under HSC section 44072.2, subdivision (d), in that between September 19, 2013, and October 12, 2013, Respondent committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for certain vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 17 through 42, inclusive, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Aid and Abet Unlicensed Activity)

46. Respondent has subjected his smog check inspector license to discipline under HSC section 44072.2, subdivision (f), in that Respondent aided and/or abetted an unlicensed person to evade the provisions of the Motor Vehicle Inspection Program. Complainant refers to, and by this

///

reference incorporates, the allegations set forth above in paragraphs 17 through 42, inclusive, as though set forth fully herein.

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 Smog Check Inspector License Number EO 153844, issued to Davinder Singh (originally issued as Advanced Emission Specialist Technician License Number EA 153844);

2. Revoking or suspending Smog Check Repair Technician License Number EI 153844, issued to Davinder Singh (originally issued as Advanced Emission Specialist Technician License Number EA 153844);

3. Ordering Davinder Singh 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;

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

DATED: 9-26-14

Patrick Dorais by Doug Balatti

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

DOUG BALATTI
Assist. Chief

LA2014612310
51596212.doc

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General
WILLIAM D. GARDNER
Deputy Attorney General
State Bar No. 244817
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2114
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **T WALLER SMOG CHECK; TIMOTHY WAYNE WALLER** Respondents.	Case No. 79/15-45 **STATEMENT TO RESPONDENT** [Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Director of Consumer Affairs, Bureau of Automotive Repair (Bureau), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Bureau, represented by Deputy Attorney General William D. Gardner, within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Bureau may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

///

///

William D. Gardner
Deputy Attorney General
Ronald Reagan Building
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Bureau, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection to the form of the Accusation unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

If you file any Notice of Defense within the time permitted, a hearing will be held on the charges made in the Accusation.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Bureau you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters charged and the discipline to be imposed. Such a stipulation would have to be approved by the Director of Consumer Affairs, Bureau of Automotive Repair but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Bureau's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Bureau's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General William D. Gardner at the earliest opportunity.

Dated: October 22, 2014

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

LA2014612310
51623809.doc