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9 **BEFORE THE**  
**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. 79/12-75

13 **SMOG STOP TEST ONLY**  
14 **ABE I. RABADI, OWNER**  
3186 Madison Street  
15 **Riverside, CA 92505**  
Automotive Repair Dealer Reg. No. ARD 259545  
16 **Smog Check, Test Only, Station License No.**  
**TC 259545,**

**FIRST AMENDED ACCUSATION**  
(Smog Check)

17 **ABE I. RABADI**  
18 **P.O. Box 70435**  
**Riverside, CA 92513**  
19 **Smog Check Inspector License No. EO 631177**  
**(formerly Advanced Emission Specialist**  
20 **Technician License No. EA 631177)**

21 **and**

22 **YOUSEF K. ZEIT**  
3845 Polk St., Apt. 57  
23 **Riverside, CA 92505**  
Advanced Emission Specialist Technician  
24 **License No. EA 632736 (to be redesignated upon**  
25 **renewal as EO 632736 and/or EI 632736)**

26 Respondents.

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1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

6 **Smog Stop Test Only; Abe I. Rabadi, Owner**

7 2. On or about September 25, 2009, the Director of Consumer Affairs (Director) issued  
8 Automotive Repair Dealer Registration Number ARD 259545 (registration) to Abe I. Rabadi  
9 (Respondent Rabadi), owner of Smog Stop Test Only. On February 6, 2012, Respondent's  
10 registration was revoked; however, the revocation was stayed and Respondent was placed on  
11 probation for three (3) years on terms and conditions, as set forth in paragraph 33 below.  
12 Respondent's registration expired on September 30, 2012, and has not been renewed.

13 3. On or about September 29, 2009, the Director issued Smog Check, Test Only, Station  
14 License Number TC 259545 (smog check station license) to Respondent Rabadi. On February 6,  
15 2012, Respondent's smog check station license was revoked; however, the revocation was stayed  
16 and Respondent was placed on probation for three (3) years on terms and conditions, as set forth  
17 in paragraph 33 below. Respondent's smog check station license expired on September 30, 2012,  
18 and has not been renewed.

19 **A & Z Smog Test Only; Abe I. Rabadi, Owner**

20 4. On or about March 2, 2010, the Director issued Automotive Repair Dealer  
21 Registration Number ARD 261018 to Respondent Rabadi, owner of A & Z Smog Test Only. On  
22 February 6, 2012, Respondent's registration was revoked, as set forth in paragraph 33 below.

23 5. On or about April 22, 2010, the Director issued Smog Check, Test Only, Station  
24 License Number TC 261018 to Respondent Rabadi, owner of A & Z Smog Test Only. On  
25 February 6, 2012, Respondent's smog check station license was revoked, as set forth in paragraph  
26 33 below.

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1 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
2 of jurisdiction to proceed with disciplinary action.

3 12. California Code of Regulations, title 16, section 3340.28, subdivision (e), states:

4 "Upon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
5 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
6 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

7 **STATUTORY PROVISIONS**

8 13. Bus. & Prof. Code section 9884.7 states, in pertinent part:

9 (a) The director, where the automotive repair dealer cannot show there  
10 was a bona fide error, may deny, suspend, revoke or place on probation the  
11 registration of an automotive repair dealer for any of the following acts or omissions  
12 related to the conduct of the business of the automotive repair dealer, which are done  
13 by the automotive repair dealer or any automotive technician, employee, partner,  
14 officer, or member of the automotive repair dealer.

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

15 . . . .

16 (4) Any other conduct that constitutes fraud.

17 . . . .

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

21 14. Code section 22, subdivision (a), states:

22 "Board" as used in any provision of this Code, refers to the board in  
23 which the administration of the provision is vested, and unless otherwise expressly  
24 provided, shall include "bureau," "commission," "committee," "department,"  
25 "division," "examining committee," "program," and "agency."

25 15. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes  
26 "registration" and "certificate."

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1 16. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

8 . . . .

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

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

13 . . .

14 17. Health & Saf. Code section 44072.10 states, in pertinent part:

15 . . . .

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

20 . . . .

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

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

26 **COST RECOVERY**

27 19. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
28 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.

**BACKGROUND**

20. In or about May 2011, the Bureau initiated an investigation of Respondent Rabadi's  
smog check station, Smog Stop Test Only, based on a review of information from the Bureau's

1 Vehicle Information Database (VID) which indicated that Rabadi and/or his employees may be  
2 engaging in fraudulent smog check inspections.

3 21. On May 31, 2011, a representative of the Bureau conducted a detailed review of the  
4 VID data for all smog inspections performed at Rabadi's facility for the period of April 1, 2011,  
5 through May 31, 2011. The representative found that the VID recorded the same two diagnostic  
6 trouble codes (code) during the OBD II test<sup>2</sup> on the 20 vehicles identified below regardless of the  
7 make or model of the vehicle. The Bureau obtained information indicating that the codes were  
8 not applicable to the vehicles. Respondent Rabadi performed the smog inspections on vehicles 1  
9 through 16; Respondent Zeit performed the inspections on vehicles 17 through 20. The Bureau  
10 concluded that Respondent Rabadi and Respondent Zeit performed the smog inspections on the  
11 vehicles using a method known as "clean plugging",<sup>3</sup> resulting in the issuance of fraudulent  
12 certificates of compliance for the vehicles.

<b>Date &amp; Time of Inspection</b>	<b>Vehicle Certified &amp; License/VIN No.</b>	<b>Certificate No.</b>
1. 04/05/2011 14:22 - 14:28	2000 Mazda Protégé; License No. 6CFW587	WT774621C
2. 04/08/2011 12:05 - 12:11	2001 Chevrolet Astro; License No. 5LMR721	WT841014C
3. 04/09/2011 10:15 - 10:23	2001 Ford Focus; License No. 5CJA509	WT841023C
4. 04/11/2011 11:12 - 11:23	1999 Chevrolet Astro; License No. 5JET363	WT841039C
5. 04/13/2011 15:59 - 16:09	2002 Ford Focus; License No. 4XHM617	WT916726C

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

28 <sup>3</sup> Clean-plugging is the use of the OBD II readiness monitor status and stored fault code  
(trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to  
another vehicle that is not in compliance due to a failure to complete the minimum number of self  
tests, known as monitors, or due to the presence of a stored fault code that indicates an emission  
control system or component failure.

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6. 04/15/2011 12:12 - 12:20	2001 Mazda Tribute; License No. 5GQT919	WT916738C
7. 04/16/2011 11:54 - 12:00	2001 Ford Explorer Sport Trac; License No. 6G68344	WT987503C
8. 04/22/2011 12:37 - 12:52	2000 Mitsubishi Eclipse; License No. 6GXJ802	WV044232C
9. 05/02/2011 14:20 - 14:35	2000 Ford Mustang; License No. 4LLX613	WV208496C
10. 05/03/2011 16:33 - 16:49	2000 Mitsubishi Mirage; License No. 5FNK752	WV262114C
11. 05/07/2011 10:46 - 10:56	2001 Mazda MPV; License No. 4SNG686	WV262131C
12. 05/09/2011 09:29 - 09:37	1996 Nissan pickup; License No. 5J38943	WV262140C
13. 05/10/2011 14:11 - 14:27	1997 Toyota Camry; License No. 5FLM545	WV361558C
14. 05/11/2011 12:11 - 12:21	1998 Toyota Camry; VIN #4T1BF28K4WU045142	WV361563C
15. 05/13/2011 12:31 - 12:42	1997 Toyota Camry; License No. 3TSP759	WV361582C
16. 05/14/2011 12:06 - 12:13	2001 Chevrolet Suburban; License No. 6CNT415	WV361592C
17. 04/28/2011 11:40 - 11:48	1997 Ford F-150; VIN #1FTDX1726VKC65270	WV097989C
18. 04/28/2011 13:18 - 13:29	2001 Acura MDX; License No. 4SEC999	WV097993C
19. 04/29/2011 10:12 - 10:34	1999 Chevrolet C1500 pickup; License No. 8X11320	WV208456C
20. 05/03/2011 09:08 - 09:16	2001 Ford F-150; License No. 7R97396	WV208500C

**FIRST CAUSE FOR DISCIPLINE**  
**(Untrue or Misleading Statements)**

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

a. Respondent Rabadi certified that vehicles 1 through 16, identified in paragraph 21 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections on the vehicles using clean-plugging methods in that he substituted or used a different vehicle (s) during the OBD II functional tests in order to issue

1 smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as  
2 required by Health & Saf. Code section 44012.

3 b. Respondent Rabadi's technician, Respondent Zeit, certified that vehicles 17 through  
4 20, identified in paragraph 21 above, had passed inspection and were in compliance with  
5 applicable laws and regulations. In fact, Respondent Zeit conducted the inspections on the  
6 vehicles using clean-plugging methods in that he substituted or used a different vehicle (s) during  
7 the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and  
8 did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 23. Respondent Rabadi's registration is subject to disciplinary action pursuant to Bus. &  
12 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute  
13 fraud by issuing electronic smog certificates of compliance for vehicles 1 through 20, identified in  
14 paragraph 21 above, without performing bona fide inspections of the emission control devices  
15 and systems on the vehicles, thereby depriving the People of the State of California of the  
16 protection afforded by the Motor Vehicle Inspection Program.

17 **THIRD CAUSE FOR DISCIPLINE**

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

19 24. Respondent Rabadi's smog check station license is subject to disciplinary action  
20 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
21 comply with the following sections of that Code:

22 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
23 performed on vehicles 1 through 20, identified in paragraph 21 above, in accordance with  
24 procedures prescribed by the department.

25 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for  
26 vehicles 1 through 20, identified in paragraph 21 above, without ensuring that the vehicles were  
27 properly tested and inspected to determine if they were in compliance with Health & Saf. Code  
28 section 44012.







1 Automotive Repair Dealer Registration Number ARD 259545 and Smog Check, Test Only,  
2 Station License Number TC 259545, issued to him as owner of Smog Stop Test Only, were also  
3 revoked<sup>4</sup>; however, the revocations were stayed and Rabadi was placed on probation for three (3)  
4 years on terms and conditions. Rabadi admitted that he "clean piped"<sup>5</sup> two Bureau undercover  
5 vehicles, in violation of Bus. & Prof. Code section 9884.7, subdivisions (a)(1) (untrue or  
6 misleading statements) and (a)(4) (fraud); and Health & Saf. Code sections 44072.2, subdivision  
7 (a) (violations of Health & Saf. Code sections 44012, subdivision (a), 44012, subdivision (f),  
8 44015, subdivision (b, and 44059); 44072.2, subdivision (c) (violations of California Code of  
9 Regulations, title 16, sections 3340.24, subdivision (c), 3340.35, subdivision (c), and 3340.42),  
10 and 44072.2, subdivision (d) (dishonesty, fraud or deceit). Rabadi also admitted that he allowed  
11 Respondent Samer George Zait to participate in the smog inspection of one of the undercover  
12 vehicles while Samer George Zait's technician license was expired, in violation of Health & Saf.  
13 Code sections 44072.2, subdivision (f) (aiding and abetting unlicensed activity), and 44072.2,  
14 subdivision (a) (violation of Health & Saf. Code section 44014, subdivision (a)).

#### 15 **OTHER MATTERS**

16 34. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
17 suspend, revoke or place on probation the registration for all places of business operated in this  
18 state by Respondent Abe I. Rabadi, owner of Smog Stop Test Only, upon a finding that  
19 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
20 regulations pertaining to an automotive repair dealer.

21 35. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
22 License Number TC 259545, issued to Abe I. Rabadi, owner of Smog Stop Test Only, is revoked

23 \_\_\_\_\_  
24 <sup>4</sup> Rabadi's Automotive Repair Dealer Registration Number ARD 259545 and Smog  
25 Check, Test Only, Station License Number TC 259545 were not Respondents in the matter, but  
26 were subject to discipline pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), due to  
the revocation of Automotive Repair Dealer Registration Number ARD 261018 and Smog Check  
Station License Number TC 261018 issued to Rabadi, as owner of A & Z Smog Test Only.

27 <sup>5</sup> 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 or suspended, any additional license issued under this chapter in the name of said licensee may be  
2 likewise revoked or suspended by the director.

3 36. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
4 Number EO 631177, (formerly Advanced Emission Specialist Technician License Number EA  
5 631177), issued to Abe I. Rabadi, is revoked or suspended, any additional license issued under  
6 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

7 37. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
8 Technician License Number EA 632736, upon renewal and redesignation as EO 632736 and/or  
9 EI 632736, issued to Yousef K. Zeit, is revoked or suspended, any additional license issued under  
10 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

11 **PRAYER**

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

- 14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
15 259545, issued to Abe I. Rabadi, owner of Smog Stop Test Only;
- 16 2. Revoking or suspending any other automotive repair dealer registration issued to Abe  
17 I. Rabadi;
- 18 3. Revoking or suspending Smog Check, Test Only, Station License Number  
19 TC 259545, issued to Abe I. Rabadi, owner of Smog Stop Test Only;
- 20 4. Revoking or suspending Smog Check Inspector License Number EO 631177,  
21 (formerly Advanced Emission Specialist Technician License Number EA 631177), issued to Abe  
22 I. Rabadi;
- 23 5. Revoking or suspending any additional license issued under Chapter 5 of the Health  
24 and Safety Code in the name of Abe I. Rabadi;
- 25 6. Revoking or suspending Advanced Emission Specialist Technician License Number  
26 EA 632736, as redesignated Smog Check Inspector License Number EO 632736 and/or Smog  
27 Check repair Technician License Number EI 632736, issued to Yousef K. Zeit;

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7. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Yousef K. Zeit;

8. Ordering Respondents Abe I. Rabadi, owner of Smog Stop Test Only, and Yousef K. Zeit to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/17/13

*PAT DORAIS by Doug Balatti*

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

*DOUG BALATTI*

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