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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:
12 **STAR SMOG CHECK**
13 **FAHD RAMADAN ATSHAN, OWNER**
14 **13500 Inglewood Ave**
Hawthorne, CA 90250
15 **12912 Roselle Ave., #B**
Hawthorne, CA 90250
16 **Automotive Repair Dealer Registration No.**
ARD 264885
17 **Smog Check Test Only Station License No.**
TC 264885

Case No. 79/14-125

A C C U S A T I O N
(S M O G C H E C K)

18 **and**

19
20 **FAHD RAMADAN ATSHAN**
12912 Roselle Ave., #B
21 **Hawthorne, CA 90250**
22 **Smog Check Repair Technician License No.**
EI633389 (formerly Advanced Emission
23 **Specialist Technician License No.**
EA633389)
24 **Smog Check Inspector License No.**
EO633389 (formerly Advanced Emission
25 **Specialist Technician License No.**
EA633389)
26

27 Respondents.
28

1 Complainant alleges:

2 **PARTIES**

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

5 **Star Smog Check**

6 2. On or about May 3, 2011, the Bureau of Automotive Repair issued Automotive
7 Repair Dealer Registration Number ARD 264885 to Fahd Ramadan Atshan, owner, doing
8 business as Star Smog Check (Respondent Star Smog Check). The Automotive Repair Dealer
9 Registration was in full force and effect at all times relevant to the charges brought herein and
10 will expire on May 31, 2014, unless renewed.

11 3. On or about July 19, 2011, the Bureau of Automotive Repair issued Smog Check
12 Test Only Station License Number TC 264885 (“station license”) to Respondent Star Smog
13 Check. The station license was in full force and effect at all times relevant to the charges brought
14 herein and will expire on May 31, 2014, unless renewed.

15 **Fahd Ramadan Atshan**

16 4. On or about July 15, 2011, the Bureau of Automotive Repair issued Advanced
17 Emission Specialist Technician License Number EA633389 to Fahd Ramadan Atshan
18 (Respondent Atshan). Respondent Atshan’s Advanced Emission Specialist Technician License
19 expired on March 31, 2013. Pursuant to California Code of regulations, title 16 section 3340.28,
20 subdivision (e)¹, said license was renewed pursuant to Respondent Atshan’s election as Smog
21 Check Inspector (EO) License No. 633389 and Smog Check Repair Technician (EI) License No.
22 633389 (“technician licenses”). Both licenses will expire on March 31, 2015.

23 **JURISDICTION**

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

26 _____
27 ¹ Effective August 1, 2012, an Amendment to Sections 3340.28, 3340.29 and 3340.30, of Article 2, Chapter
28 1, Division 33, Title 16, CCR implemented a License restructure of Smog Check Technician (EA/EB) license types
to Smog Check Inspector (EO) license and Smog Check Repair Technician (EI) license.

STATUTORY PROVISIONS

1
2 6. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
3 part:

4 (a) The director, where the automotive repair dealer cannot show there
5 was a bona fide error, may refuse to validate, or may invalidate temporarily or
6 permanently, the registration of an automotive repair dealer for any of the following
7 acts or omissions related to the conduct of the business of the automotive repair
8 dealer, which are done by the automotive repair dealer or any automotive technician,
9 employee, partner, officer, or member of the automotive repair dealer.

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

13 (4) Any other conduct which constitutes fraud.

14 (b) Except as provided for in subdivision (c), if an automotive repair
15 dealer operates more than one place of business in this state, the director pursuant to
16 subdivision (a) shall only invalidate temporarily or permanently the registration of the
17 specific place of business which has violated any of the provisions of this chapter.
18 This violation, or action by the director, shall not affect in any manner the right of the
19 automotive repair dealer to operate his or her other places of business.

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

25 7. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
26 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
27 proceeding against an automotive repair dealer or to render a decision invalidating a registration
28 temporarily or permanently.

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

 9. Section 44002 of the Health and Safety Code 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.

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

2 The director may suspend, revoke, or take other disciplinary action against a license
3 as provided in this article if the licensee, or any partner, officer, or director thereof,
4 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 (c) Violates any of the regulations adopted by the director pursuant to
9 this chapter.

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

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

16 12. Section 44072.8 of the Health and Safety Code states:

17 When a license has been revoked or suspended following a hearing under this article,
18 any additional license issued under this chapter in the name of the licensee may be
19 likewise revoked or suspended by the director.

20 REGULATORY PROVISIONS

21 13. California Code of Regulations ("CCR"), title 16, section 3340.24, subdivision (c),
22 states that the bureau may suspend or revoke the license of or pursue other legal action against a
23 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
24 certificate of noncompliance.

25 14. CCR, title 16, section 3340.28, subdivision (e) states that upon renewal of an
26 unexpired Basic Area Technician License or an Advanced Emission Specialist License issued
27 prior to the effective date of this regulation, the licensee may apply to renew as a Smog Check
28 Inspector, Smog Check Repair Technician, or both.

15. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
shall at all times inspect, 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.

1 laws and regulations. In fact, Respondent Atshan performed the smog inspections using the clean
 2 piping method² by using the tail pipe emissions of vehicles other than the vehicles being certified
 3 in order to issue the electronic certificates of compliance. The vehicles certified were not in the
 4 test bay at the time of the smog inspections.

5
 6 **Table 1**

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
6/5/2013 12:43 hours to 13:21 hours	2002 Nissan Altima, VIN# 1N4BL11D42C240344	Silver Lexus LS400	XV229467C
6/5/2013 13:26 hours to 13:31 hours	2008 Nissan Altima VIN# 1N4AL21E08N478201	White Ford Windstar	XV229468C
6/5/2013 13:47 hours to 13:59 hours	2005 Chrysler 300 License #89022H1	Silver Lexus LS400	XV229469C
6/5/2013 14:07 hours to 14:14 hours	1998 Mercedes-Benz ML320 VIN# 4JGAB54E4WA045457	Black Chevrolet C1500 Pickup	XV229470C
6/5/2013 14:22 hours To 14:37 hours	1987 Toyota Camry License #6NKF423	Silver Lexus LS400	XV229471C
6/5/2013 14:42 hours to 14:52 hours	2004 Hyundai Santa Fe VIN# KM8SC13D74U698220	Silver Lexus LS400	XV229472C
6/5/2013 14:56 hours to 15:05 hours	2009 Nissan Frontier License #8U56104	Silver Lexus LS400	XV229473C

26 ² "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
 27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
 28 compliance or are not present in the smog check area during the time of the certification.

6/5/2013 15:09 hours to 15:19 hours	2000 Volkswagen Jetta VIN# 3VWSD29M0YM164028	Black Chevrolet CI500 Pickup	XV229474C
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FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

22. Respondent Star Smog Check has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about the dates specified in Table 1 above, it made statements which it knew or which by exercise of reasonable care it should have known were untrue or misleading when its employee issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

23. Respondent Star Smog Check has subjected its registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about the dates listed above in Table 1, it committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, 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.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

24. Respondent Star Smog Check has subjected its station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table 1, above, it violated sections of that Code, as follows:

a. **Section 44012, subdivision (a):** Respondent Star Smog Check failed to perform in accordance with procedures prescribed by the department. Respondent Star Smog Check's smog technician failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

1 e. **Section 3340.42:** Respondent Star Smog Check's smog technician failed to conduct
2 the required smog tests and inspections on those vehicles in accordance with the Bureau's
3 specifications.

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6 26. Respondent Atshan has subjected his technician licenses to discipline under Health
7 and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table
8 1, above, he violated sections of that Code, as follows:

9 a. **Section 44012, subdivision (a):** Respondent Atshan failed to perform in accordance
10 with the procedures prescribed by the department. Respondent Atshan failed to determine that all
11 emission control devices and systems required by law were installed and functioning correctly in
12 accordance with test procedures.

13 b. **Section 44012, subdivision (f):** Respondent Atshan failed to perform emission
14 control tests on those vehicles in accordance with procedures prescribed by the department.

15 c. **Section 44032:** Respondent Atshan failed to perform tests of the emission control
16 devices and systems on those vehicles in accordance with section 44012 of that Code, in that the
17 vehicle had been clean piped.

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

21 **SIXTH CAUSE FOR DISCIPLINE**

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

23 27. Respondent Atshan has subjected his technician licenses to discipline under Health
24 and Safety Code section 44072.2, subdivision (c), in that, regarding the vehicles set forth in Table
25 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

26 a. **Section 3340.24, subdivision (c):** Respondent Atshan falsely or fraudulently issued
27 electronic certificates of compliance without performing bona fide inspections of the emission
28

1 control devices and systems on those vehicles as required by Health and Safety Code section
2 44012.

3 b. **Section 3340.30, subdivision (a):** Respondent Atshan failed to inspect and test those
4 vehicles in accordance with Health and Safety Code section 44012.

5 c. **Section 3340.41, subdivision (c):** Respondent Atshan entered false information into
6 the Emission Inspection System for the electronic certificates of compliance by entering vehicle
7 emission control information for vehicles other than the vehicles being certified.

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

10 **SEVENTH CAUSE FOR DISCIPLINE**

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

12 28. Respondent Atshan has subjected his technician licenses to discipline under Health
13 and Safety Code section 44072.2, subdivision (d), in that regarding the vehicles set forth above in
14 Table 1, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
15 issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without
16 performing bona fide inspections of the emission control devices and systems on those vehicles,
17 thereby depriving the People of the State of California of the protection afforded by the Motor
18 Vehicle Inspection Program.

19 **OTHER MATTERS**

20 29. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
21 or may invalidate temporarily or permanently, the registrations for all places of business operated
22 in this state by Respondent Star Smog Check and its owner, Respondent Atshan, upon a finding
23 that either partner has, or is, engaged in a course of repeated and willful violations of the laws and
24 regulations pertaining to an automotive repair dealer.

25 30. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
26 License Number TC 264885 to Respondent Star Smog Check is revoked or suspended, any
27 additional license issued under this chapter in the name of said licensee may be likewise revoked
28 or suspended by the director.

1 31. Pursuant to Health & Safety Code sections 44072.8, if Respondent Smog Check
2 Repair Technician License Number EI633389 and/or Smog Check Inspector License Number
3 EO633389 issued to Fahd Ramadan Atshan, is revoked or suspended, any additional license
4 issued under this chapter in the name of said licensee may be likewise revoked or suspended by
5 the director.

6 **PRAYER**

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

- 9 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
10 264885, issued to Star Smog Check;
- 11 2. Revoking or suspending Smog Check Test Only Station License Number TC 264885,
12 issued to Star Smog Check;
- 13 3. Revoking or suspending Smog Check Inspector License No. EO633389, issued to
14 Fahd Ramadan Atshan;
- 15 4. Revoking or suspending Smog Check Repair Technician License No. EI633389,
16 issued to Fahd Ramadan Atshan;
- 17 5. Ordering Fahd Ramadan Atshan and/or Star Smog Check to pay the Bureau of
18 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
19 pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

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22 ///

23 DATED: April 24, 2014


24 PATRICK DORAIS
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant

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