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

In the Matter of the Accusation Against:

Case Number: 79/17-1224

ACCUSATION

CHEVREM CORPORATION
d.b.a CLEAR BLUE TEST ONLY SMOG STATION 2
**FATIH TEKIN, PRESIDENT/SECRETARY/
TREASURER**
3790 Hopyard Road
Pleasanton, CA 94588

Automotive Repair Dealer No. ARD 244942
Smog Check, Test Only, License No. TC 244942

FATIH TEKIN
5200 Telegraph Avenue
Oakland, CA 94609

Mailing address:
121 Diamond Court
Hercules, CA 94547

Smog Check Inspector License No. EO 26524

EREN KARADELI
2527 Dwight Way #3
Berkeley, CA 94704

Smog Check Inspector License No. EO 633764

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1 **MAHBOOB KARIMI**
2 **2111 Cabana Lane**
3 **Tracy, CA 95377**

4 **Mailing address:**
5 **3265 Antonio Loop**
6 **Tracy, CA 95377**

7 **Brake Adjuster License No. BA 633632, Class C**
8 **Smog Check Inspector License No. EO 633632**

9 Respondents.

10 Complainant alleges:

11 **PARTIES**

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

14 **Automotive Repair Dealer Registration – Respondent Clear Blue Test Only Smog
Station 2**

15 2. In 2006, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer
16 Registration Number ARD 244942 (Registration) to Chevrem Corporation, Fatih Tekin,
17 President/Secretary/Treasurer d.b.a Clear Blue Test Only Smog Station 2 (Respondent Clear Blue
18 Test Only Smog Station 2). The Registration was in full force and effect at all times relevant to
19 the charges brought herein and will expire on April 30, 2019, unless renewed.

20 **Smog Check Test Only Station License – Respondent Clear Blue Test Only Smog
Station 2**

21 3. On or about November 20, 2006, the Bureau issued Smog Check, Test Only, Station
22 License Number TC 244942 to Respondent Clear Blue Test Only Smog Station 2. The License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 April 30, 2019, unless renewed.

25 4. On or about January 8, 2013, the Bureau issued a STAR Certificate to Respondent
26 Clear Blue Test Only Smog Station 2. The STAR Certificate was in full force and effect at all
27 times relevant to the charges brought herein and will remain active unless the Automotive Repair
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1 Dealer registration and/or Smog Check Station license is revoked, canceled, licenses become
2 delinquent or certification is invalidated.

3 **Smog Check Inspector Licenses**

4 5. In 2003, the Bureau issued Advanced Emission Specialist Technician License
5 Number EA 26524 to Fatih Tekin (Respondent Tekin). The Advanced Emission Specialist
6 Technician License expired on January 30, 2014. Pursuant to California Code of Regulations, title
7 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's election,
8 as Smog Check Inspector License Number EO 26524, effective January 30, 2014.¹ The Smog
9 Check Inspector License was in full force and effect at all times relevant to the charges brought
10 herein and will expire on January 31, 2020, unless renewed.

11 6. On or about October 31, 2011, the Bureau issued Advanced Emission Specialist
12 Technician License Number EA 633764 to Eren Karadeli (Respondent Karadeli). The Advanced
13 Emission Specialist Technician License expired on October 16, 2013. Pursuant to California
14 Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant
15 to Respondent's election, as Smog Check Inspector License Number EO 633764; effective
16 October 16, 2013. The Smog Check Inspector License was in full force and effect at all times
17 relevant to the charges brought herein; it expired on September 30, 2017, and has not been
18 renewed.

19 7. On or about September 19, 2011, the Bureau issued Advanced Emission Specialist
20 Technician License Number EA 633632 to Mahboob Karimi (Respondent Karimi). The
21 Advanced Emission Specialist Technician License expired on May 31, 2013, and was cancelled
22 on November 13, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,
23 subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check
24 Inspector License Number EO 633764; effective November 13, 2013. The Smog Check Inspector
25

26
27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, 3340.28, 3340.29 and
28 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 and/or Smog Check Repair Technician (EI) license.

1 License was in full force and effect at all times relevant to the charges brought herein and will
2 expire on May 31, 2019, unless renewed.

3 8. On or about March 4, 2015, the Bureau of issued Brake Adjuster License Number BA
4 633632, Class C to Respondent Karimi. The Brake Adjuster License was in full force and effect
5 at all times relevant to the charges brought herein and expired on May 31, 2018, and has not been
6 renewed.

7 9. "Respondents" shall refer to Respondents Karadeli, and Karimi collectively.

8 JURISDICTION

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

11 11. Business and Professions Code (Code) section 118, subdivision(b) states that "the
12 suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
13 department, or its suspension, forfeiture, or cancellation by order of the board or by order of a
14 court of law, or its surrender without the written consent of the board, shall not, during any period
15 in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to
16 institute or continue a disciplinary proceeding against the licensee upon any ground provided by
17 law or to enter an order suspending or revoking the license or otherwise taking disciplinary action
18 against the licensee on any such ground."

19 12. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
20 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
21 proceeding against an automotive repair dealer or to render a decision invalidating a registration
22 temporarily or permanently.

23 STATUTORY AND REGULATORY PROVISIONS

24 13. Section 9884.7 of the Code states, in pertinent part:

25 (a) The director, where the automotive repair dealer cannot show there was a bona fide
26 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair
27 dealer for any of the following acts or omissions related to the conduct of the business of the
28 automotive repair dealer, which are done by the automotive repair dealer or any automotive

1 technician, employee, partner, officer, or member of the automotive repair dealer.

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

5 . . .

6 (4) Any other conduct that constitutes fraud.

7 . . .

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

10 . . .

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

15 14. Section **44002** of the Health and Safety Code provides, in pertinent part, that the
16 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
17 the Motor Vehicle Inspection Program.

18 15. Section **44012** of the Health and Safety Code, in pertinent part, states:

19 "The test at the smog check stations shall be performed in accordance with procedures
20 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
21 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
22 and shall ensure all of the following:

23 . . .

24 "(f) A visual or functional check is made of emission control devices specified by the
25 department, including the catalytic converter in those instances in which the department
26 determines it to be necessary to meet the findings of Section 44001. The visual or functional
27 check shall be performed in accordance with procedures prescribed by the department.

28 . . . "

1 16. Section **44015** of the Health and Safety Code, subdivision (b) provides that if a
2 vehicle meets the requirements of Section 44012, a smog check station licensed to issue
3 certificates shall issue a certificate of compliance or a certificate of noncompliance.

4 17. Section **44032** of the Health and Safety Code, provides that no person shall perform,
5 for compensation, tests or repairs of emission control devices or systems of motor vehicles
6 required by this chapter unless the person performing the test or repair is a qualified smog check
7 technician and the test or repair is performed at a licensed smog check station. Qualified
8 technicians shall perform tests of emission control devices and systems in accordance with
9 Section 44012.

10 18. Section **44059** of the Health and Safety Code states, in pertinent part:

11 "The willful making of any false statement or entry with regard to a material matter in any
12 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
13 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
14 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code."

15 19. Section **44072.2** of the Health and Safety Code states, in pertinent part:

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

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

22 . . .

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

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

25 . . .

26 "(h) Violates or attempts to violate the provisions of this chapter relating to the particular
27 activity for which he or she is licensed."

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

5 21. Section **44072.8** of the Health and Safety Code states:

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

9 22. Section **44072.10, subdivision (c)** of the Health and Safety Code states:

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

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

14 23. California Code of Regulations, title 16, section **3340.24, subdivision (c)** states:

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

18 24. California Code of Regulations, title 16, section **3340.30, subdivision (a)** states:

19 "A licensed smog check inspector and/or repair technician shall comply with the following
20 requirements at all times while licensed:

21 "(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
22 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
23 article."

24 . . .

25 25. California Code of Regulations, title 16, section **3340.35, subdivision (c)** states:

26 "(c) A licensed station shall issue a certificate of compliance or noncompliance to the
27 owner or operator of any vehicle that has been inspected in accordance with the procedures
28

1 specified in section 3340.42 of this article and has all the required emission control equipment
2 and devices installed and functioning correctly. The following conditions shall apply:

3 "(1) Customers shall be charged the same price for certificates as that paid by the licensed
4 station; and

5 "(2) Sales tax shall not be assessed on the price of certificates.

6 . . ."

7 26. California Code of Regulations, title 16, section **3340.41, subdivision (c)** states:

8 "(c) No person shall enter into the emissions inspection system any vehicle identification
9 information or emission control system identification data for any vehicle other than the one
10 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
11 information about the vehicle being tested."

12 27. California Code of Regulations, title 16, section **3340.42, subdivision (b)(2)**, states,
13 in pertinent part that "Smog check inspection methods are prescribed in the Smog Check Manual,
14 referenced by section 3340.45."

15 (b) In addition to subsection (a), all vehicles subject to the smog check program shall
16 receive the following:

17 (1) A visual inspection of emission control components and systems to verify the vehicle's
18 emission control systems are properly installed.

19 (2) A functional inspection of emission control systems as specified in the Smog Check
20 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper
21 operation.

22 . . ."

23 28. California Code of Regulations, title 16, section **3340.45**, states:

24 (a) All Smog Check inspections shall be performed in accordance with requirements and
25 procedures prescribed in the following:

26 (1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
27 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.
28

1 (2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
2 manual shall become effective on or after January 1, 2013.

3 29. California Code of Regulations, title 16, **section 3373** states:

4 "No automotive repair dealer or individual in charge shall, in filling out an estimate,
5 invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter,
6 withhold therefrom or insert therein any statement or information which will cause any such
7 document to be false or misleading, or where the tendency or effect thereby would be to mislead
8 or deceive customers, prospective customers, or the public."

9 **COSTS**

10 30. Section **125.3** of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 **FACTUAL SUMMARY**

17 31. California's Smog Check Program requires the owners of most motor vehicles in
18 California to take and pass a Smog Check inspection and receive a Certificate of Compliance
19 every two years when renewing their registration and also when the vehicle's title is transferred.
20 These inspections are performed by Smog Check inspectors at Smog Check Stations, both of
21 which are licensed by the Bureau.

22 32. The Smog Check inspection in certain Enhanced areas of the state is an Acceleration
23 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
24 as a BAR 97. This is a computer based five-gas analyzer that measures hydrocarbons, carbon
25 monoxide, oxides of nitrogen, carbon dioxide, and oxygen. The inspection involves a test of the
26 vehicle's tailpipe emissions on a dynamometer. In Basic areas of the state, or depending on a
27 vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed
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1 Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a
2 dynamometer, the EIS measures the emissions at idle as well as 2500 revolutions per minute
3 (RPM).

4 33. The inspector also performs visual and functional tests on the vehicle as outlined in
5 the Smog Check Manual. The visual inspection of the emission control components verifies the
6 required emission control devices are present and properly connected. Functional tests are also
7 performed which, depending on the vehicle, may include checking the ignition timing,
8 malfunction indicator light (MIL), Exhaust Gas Recirculation (EGR) system, a low pressure test
9 of the evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas
10 cap.

11 34. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring
12 the use of the On Board Diagnostic Inspection System (BAR-OIS) instead of the Emission
13 Inspection System (EIS) for the smog testing of 2000 model year and newer gas powered and
14 1998 and newer diesel vehicles. Most older vehicles require the ASM or TSI test on the EIS.

15 35. The new BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
16 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
17 vehicle's On Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR
18 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
19 vehicle. The bar code scanner is used to input technician information, the vehicle identification
20 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
21 Reports.

22 36. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
23 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
24 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
25 PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the
26 number of specific data values each PCM uses related to emissions controls.

27 37. As part of the BAR-OIS smog inspections, the technician also performs a visual and
28 functional test on the vehicle being inspected. The visual inspection of the emission control

1 components verifies the required emission control devices are present and properly connected and
2 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
3 makes the determination whether or not the vehicle passes the inspection based on the results of
4 the OBD, visual and functional tests. If the vehicle passes the inspection a certificate of
5 compliance is issued. The information from the smog inspection is then transmitted to the
6 Vehicle Information Data (VID).

7 38. The Bureau can access the VID to view test data on smog check inspections
8 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
9 particular vehicle which has been tested.

10 39. The Bureau has become aware of methods some Smog Check stations and Smog
11 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog
12 Check test on their own, or in some instances, are not even present during the time the test is
13 performed.

14 40. One method is known as "clean plugging." Clean plugging is the act of using one
15 vehicle's properly functioning OBDII system, or another source, to generate passing data readings
16 or diagnostic information for the purpose or fraudulently issue a smog certificate of compliance to
17 a vehicle that is not in smog compliance and/or not present for testing. The vehicle being tested is
18 not the one being issued the certificate of compliance.

19 41. The Bureau initiated an investigation of Respondent Clear Blue Test Only Smog
20 Station. Beginning on or about August 1, 2015 and continuing until about March 20, 2017
21 Respondents² were found to have performed nine fraudulent smog inspections using clean-
22 plugging methods. Clean-plugging is the practice of testing one OBD II system (a system that
23 would pass the smog inspection), for the purpose of fraudulently issuing a smog certificate of
24 compliance to another vehicle that would not pass the smog inspection and/or is not present for
25 testing. The vehicle receiving the certificate of compliance is not actually tested during the smog
26 inspection.

27
28 ² Respondents Karadeli and Karimi performed the smog tests on behalf of Respondent
Clear Blue Test Only Smog Station 2.

42. A Bureau representative reviewed data for nine clean plugged vehicles inspected by Respondents Karadeli and Karimi and certified by Respondent Clear Blue Test Only Smog Station. The data revealed that the nine vehicles that were purportedly tested by Respondents were not and could not have been connected to the DAD when they were being certified because the OBD-II data purportedly transmitted by those vehicles could not have been transmitted by those vehicles.

43. Respondents clean plugged and issued fraudulent certificates of compliance to the following nine vehicles:

a) Clean Plug# 1 - 2005 Ford F150, VIN:1FTPW14505FB54799, CA license number 7X31540, performed by Respondent Karadeli on August 1, 2015:

Certificate #	eVIN	Protocol	PID count
PU501304C			
Fraudulent Passing Inspection (08/01/2015)	JHLRD78806C029037	I914	<u>20</u>
Expected OBDII Value	1FTPW14505FB54799	ICAN11bt5	<u>44</u>

b) Clean Plug #2 – 2001 GMC Yukon, VIN: 1GKEK13T11J115847, CA license number 4NFK459, performed by Respondent Karadeli on August 14, 2015:

Certificate #	eVIN	Protocol	PID count
PU778943C			
Fraudulent Passing Inspection (08/14/2015)	1N4CL21EX8C143662	ICAN11bt5	<u>39/22</u>
Expected OBDII Value	1GKEK13T11J115847	JVPW	<u>22 or 23</u>

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c) Clean Plug #3 – 2006 Cadillac STS, VIN: 1G6DW677660184829, CA license number 7NGF625, performed by Respondent Karimi on September 16, 2016:

Certificate #	eVIN	Protocol	PID count
QE336501C			
Fraudulent Passing Inspection (09/16/2016)	JTKDE177160123884	I914	<u>17</u>
Expected OBDII Value	1G6DW677660184829	ICAN11bt5	<u>42/7</u>

d) Clean Plug #4 – 2007 Chevrolet Corvette Z06, VIN: 1G1YY26E075116041, CA license number GETLO, performed by Respondent Karimi on October 14, 2016:

Certificate #	eVIN	Protocol	PID count
QG101780C			
Fraudulent Passing Inspection (10/14/2016)	JTEZU14RX50046805	ICAN11bt5	<u>44</u>
Expected OBDII Value	1G1YY26E075116041	ICAN11bt5	<u>43</u>

e) Clean Plug #5 – 2010 Chevrolet Corvette ZR-1, VIN: 1G1YN2DT8A5800465, performed by Respondent Karimi on November 30, 2016:

Certificate #	eVIN	Protocol	PID count
ZL280898C			
Fraudulent Passing Inspection (11/30/2016)	JTEZU14RX50046805	ICAN11bt5	<u>44</u>
Expected OBDII Value	1G1YN2DT8A5800465	ICAN11bt5	<u>46/8</u>

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f) Clean Plug #6 – 2006 Chevrolet Silverado K1500, VIN: 2GCEK13TX61219993, CA license number 7Z82185, performed by Respondent Karimi on December 22, 2016:

Certificate #	eVIN	Protocol	PID count
ZL976315C			
Fraudulent Passing Inspection (12/22/2016)	JTKDE177160123884	I914	<u>17</u>
Expected OBDII Value	2GCEK13TX61219993	JVPW	<u>22</u>

g) Clean Plug #7 – 2007 Chevrolet Corvette Z06, VIN:1G1YY26E475135269, CA license number U2SKURD, performed by Respondent Karimi on January 11, 2017:

Certificate #	eVIN	Protocol	PID count
ZN573801C			
Fraudulent Passing Inspection (01/11/2017)	JTEZU14RX50046805	ICAN11bt5	<u>44</u>
Expected OBDII Value	1G1YY26E475135269	ICAN11bt5	<u>43</u>

h) Clean Plug #8 – 2008 Infiniti G37 BASE, VIN: JNKCV64E78M121280, CA license number 6BRE363, performed by Respondent Karimi on January 21, 2017:

Certificate #	eVIN	Protocol	PID count
ZN775771C			
Fraudulent Passing Inspection (01/21/2017)	JTEZU14RX50046805	ICAN11bt5	<u>44</u>
Expected OBDII Value	JNKCV64E78M121280	ICAN11bt5	<u>43</u>

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i) Clean Plug #9 – 2004 BMW 645 CI Automatic, VIN: WBAEK73474B260247, performed by Respondent Karimi on March 20, 2017:

Certificate # ZR477094C	eVIN	Protocol	PID count
Fraudulent Passing Inspection (03/20/2017)	WDBWK56F95F064361	ICAN11bt5	44
Expected OBDII Value	WBAEK73474B260247	KWPF	23, 23/1, 23/7, or 23/14

FIRST CAUSE FOR DISCIPLINE
(Misleading Statements - Registration)

44. Respondent Clear Blue Clear Blue Test Only Smog Station 2 has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that it made statements which it knew or which by exercise of reasonable care it should have known were untrue or misleading, as set forth above in paragraphs 41-43, above. Respondents fraudulently purported to test the nine vehicles, and certified that the nine vehicles passed inspection and were in compliance with applicable laws and regulations. In fact, Respondents conducted the inspections on those vehicles using clean-plugging methods.

SECOND CAUSE FOR DISCIPLINE
(Fraud - Registration)

45. Respondent Clear Blue Test Only Smog Station 2 has subjected its registration to discipline under Code section 9884.7, subdivision (a)(4), in that it committed acts which constitute fraud, as set forth above in paragraphs 41-43, above.

THIRD CAUSE FOR DISCIPLINE
(Violation of the Motor Vehicle Inspection Program – Smog Station License)

46. Respondent Clear Blue Test Only Smog Station 2 has subjected its station license to discipline under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that it violated sections of that Code and applicable regulations, as set forth above in paragraphs 41-43, as follows:

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1 a. **Section 44012:** Respondent Clear Blue Test Only Smog Station 2 failed to ensure
2 that the emission control tests were performed on those vehicles in accordance with procedures
3 prescribed by the department.

4 b. **Section 44012, subdivision (f):** Respondent Clear Blue Test Only Smog Station 2
5 failed to perform a visual or functional check of emission control devices on those vehicles in
6 accordance with procedures prescribed by the department.

7 c. **Section 44015, subdivision (b):** Respondent Clear Blue Test Only Smog Station 2
8 issued electronic smog certificates of compliance but failed to ensure that the vehicles were
9 properly tested and inspected to determine if the emission control tests performed on those
10 vehicles in accordance with procedures prescribed by the department.

11 d. **Section 44059:** Respondent Clear Blue Test Only Smog Station 2 willfully made
12 false entries for the electronic certificates of compliance by certifying that those vehicles had
13 been inspected as required when, in fact, they had not.

14 e. **Section 3340.35, subdivision (c):** Respondent Clear Blue Test Only Smog Station 2
15 failed to ensure that the emission control tests were performed on those vehicles in accordance
16 with procedures prescribed by the department.

17 f. **Section 3340.42, subdivision (b)(2):** Respondent Clear Blue Test Only Smog Station
18 2 failed to conduct a functional inspection of emission control systems for vehicles as specified in
19 the Smog Check Manual, referenced by California Code of Regulations, title 16, section 3340.45.

20 g. **Section 3340.45, subdivision (a)(2):** Respondent Clear Blue Test Only Smog Station
21 2 failed to perform smog check inspections in accordance with requirements and procedures
22 prescribed in the Smog Check Inspection Manual.

23 h. **Section 3373:** Respondent Clear Blue Test Only Smog Station 2 created false or
24 misleading work orders by issuing the fraudulent certificates of compliance for the nine vehicles.

25 **FOURTH CAUSE FOR DISCIPLINE**
26 **(Dishonesty, Fraud or Deceit – Smog Station License)**

27 47. Respondent Clear Blue Test Only Smog Station 2 subjected its station license to
28 discipline under Health and Safety Code sections 44072.10 and 44072.2, subdivision (d), in that it

1 committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing
2 electronic certificates of compliance for vehicles without performing bona fide inspections of the
3 emission control devices and systems on the vehicles, thereby depriving the People of the State of
4 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
5 in paragraphs 41-43, above.

6 **FIFTH CAUSE FOR DISCIPLINE**
7 **(Violations of the Motor Vehicle Inspection Program:**
8 **Smog Check Inspector License -Karadeli)**

8 48. Respondent Karadeli has subjected his Smog Check Inspector license to discipline
9 under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that he
10 violated sections of that Code and applicable regulations, as set forth above in paragraphs 41-43,
11 as follows:

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

14 b. **Section 44012, subdivision (f):** Respondent Karadeli failed to perform a visual or
15 functional check of emission control devices on those vehicles in accordance with procedures
16 prescribed by the department.

17 c. **Section 44032:** Respondent Karadeli failed to perform tests of emission control
18 devices and systems on those vehicles in accordance with Section 44012.

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

22 e. **Section 3340.30, subdivision (a):** Respondent Karadeli failed to inspect and test
23 those vehicles in accordance with Health and Safety Code section 44012 and California Code of
24 Regulations title 16, section 3340.42.

25 f. **Section 3340.41, subdivision (c):** Respondent Karadeli entered vehicle identification
26 information for a vehicle other than the one being tested into the emissions inspection system.
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1 Respondent Karadeli knowingly entered false information about the vehicle being tested into the
2 emissions inspection system.

3 g. **Section 3340.42, subdivision (b)(2):** Respondent Karadeli failed to conduct a
4 functional inspection of emission control systems for vehicles as specified in the Smog Check
5 Manual, referenced by California Code of Regulations, title 16, section 3340.45.

6 h. **Section 3340.45, subdivision (a)(2):** Respondent Karadeli failed to perform smog
7 check inspections in accordance with requirements and procedures prescribed in the Smog Check
8 Inspection Manual.

9 **SIXTH CAUSE FOR DISCIPLINE**
(Dishonesty, Fraud or Deceit – Smog Check Inspector License)

10 49. Respondent Karadeli subjected his Smog Check Inspector License to discipline under
11 Health and Safety Code sections 44072.10 and 44072.2, subdivision (d), in that he committed acts
12 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
13 certificates of compliance for vehicles without performing bona fide inspections of the emission
14 control devices and systems on the vehicles, thereby depriving the People of the State of
15 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
16 in paragraphs 41-43.

17 **SEVENTH CAUSE FOR DISCIPLINE**
18 **(Violations of the Motor Vehicle Inspection Program:**
19 **Smog Check Inspector License - Karimi)**

20 50. Respondent Karimi has subjected his Smog Check Inspector license to discipline
21 under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that he
22 violated sections of that Code and applicable regulations, as set forth above in paragraphs 41-43,
23 as follows:

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

26 b. **Section 44012, subdivision (f):** Respondent Karimi failed to perform a visual or
27 functional check of emission control devices on those vehicles in accordance with procedures
28 prescribed by the department.

1 c. **Section 44032:** Respondent Karimi failed to perform tests of emission control
2 devices and systems on those vehicles in accordance with Section 44012.

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

6 e. **Section 3340.30, subdivision (a):** Respondent Karimi failed to inspect and test those
7 vehicles in accordance with Health and Safety Code section 44012 and California Code of
8 Regulations title 16, section 3340.42.

9 f. **Section 3340.41, subdivision (c):** Respondent Karimi entered vehicle identification
10 information for a vehicle other than the one being tested into the emissions inspection system.
11 Respondent Karimi knowingly entered false information about the vehicle being tested into the
12 emissions inspection system.

13 g. **Section 3340.42, subdivision (b)(2):** Respondent Karimi failed to conduct a
14 functional inspection of emission control systems for vehicles as specified in the Smog Check
15 Manual, referenced by California Code of Regulations, title 16, section 3340.45.

16 h. **Section 3340.45, subdivision (a)(2):** Respondent Karimi failed to perform smog
17 check inspections in accordance with requirements and procedures prescribed in the Smog Check
18 Inspection Manual.

19 **EIGHTH CAUSE FOR DISCIPLINE**
(Dishonesty, Fraud or Deceit – Smog Check Inspector License)

20 51. Respondent Karimi subjected his Smog Check Inspector License to discipline under
21 Health and Safety Code sections 44072.10 and 44072.2, subdivision (d), in that he committed acts
22 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
23 certificates of compliance for vehicles without performing bona fide inspections of the emission
24 control devices and systems on the vehicles, thereby depriving the People of the State of
25 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
26 in paragraphs 41-43.

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1 **OTHER MATTERS**

2 52. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
3 or place on probation the registration for all places of business operated in this state by
4 Respondent Clear Blue Test Only Smog Station 2, upon a finding that Respondent has, or is,
5 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
6 automotive repair dealer.

7 53. Pursuant to Health & Safety Code section 44072.8, if Respondent Clear Blue Test
8 Only Smog Station 2's Station License is revoked or suspended, any additional license issued
9 under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said
10 licensee may be likewise revoked or suspended by the director.

11 54. Pursuant to Health & Safety Code section 44072.8, if Respondent Karadeli's Smog
12 Check Inspector License is revoked or suspended, any additional license issued under Chapter 5
13 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be
14 likewise revoked or suspended by the director.

15 55. Pursuant to Health & Safety Code section 44072.8, if Respondent Karimi's Smog
16 Check Inspector License is revoked or suspended, any additional license issued under Chapter 5
17 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be
18 likewise revoked or suspended by the director.

19 **DISCIPLINE CONSIDERATIONS**

20 56. To determine the degree of discipline, if any, to be imposed on Respondent Clear
21 Blue Test Only Smog Station 2, Complainant alleges that on or about June 27, 2003, in a prior
22 action, an accusation was filed on Gurnur International Corporation and its President, Fatih
23 Tekin, d.b.a. GIC Smog Station for causing the issuance of 13 fraudulent Smog Check Inspection
24 Certificates of Compliance to be issued. The business name for GIC Smog Station was changed
25 to Walnut Creek Star Smog and ownership of the facility is under Chevrem Corporation with
26 Fatih Tekin as President. On December 6, 2004, the Department of Consumer Affairs adopted a
27 decision in the matter of Accusation 79/04-00 which revoked GIC Smog Station's Smog Check
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1 Station licenses and Automotive Repair Dealer registrations. However, the revocations were
2 stayed and the stations were placed on three years probation.

3 57. To determine the degree of discipline, if any, to be imposed on Respondent Clear
4 Blue Test Only Smog Station 2, Complainant alleges that on or about September 15, 2008, in a
5 prior action, an accusation was filed on Chevrem Corporation and its President, Fatih Tekin,
6 d.b.a. Clear Blue Test Only Smog Station, Clear Blue Test Only Smog Station 2, Clear Blue Test
7 Only Station 3, Test Only Smog Station II, and GIC Smog Station for causing the issuance of 13
8 fraudulent Smog Check Inspection Certificates of Compliance. On April 6, 2009, the Department
9 of Consumer Affairs adopted a decision in the matter of Accusation 79/09-21 which revoked all
10 Smog Check Station licenses and Automotive Repair Dealer registrations for each facility.

11 However, the revocations were stayed and the stations were placed on five years probation.
12 In addition, each station was suspended anywhere from 5 to 45 days.

13 58. To determine the degree of discipline, if any, to be imposed on Respondent Clear
14 Blue Test Only Smog Station 2, Complainant alleges that on or about August 25, 2015, in a prior
15 action, the Bureau issued Citation Number C2015-1690 and ordered Respondent to cease and
16 desist from violating Health and Safety Code section 44012 in that Respondent issued a
17 certificate of compliance using the BAR97 method when an OBD Inspection System (OIS) is
18 required. That Citation is now final and is incorporated by reference as if fully set forth.

19
20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
24 244942, issued to Chevrem Corporation, Fatih Tekin, President, doing business as Clear Blue
25 Test Only Smog Station 2;

26 2. Revoking or suspending Smog Check Test Only Station License Number TC
27 244942, issued to Chevrem Corporation, Fatih Tekin, President, doing business as Clear Blue
28 Test Only Smog Station 2;

1 3. Revoking or suspending any additional Automotive Repair Dealer Registration,
2 Smog Check Station License, Smog Check Inspector License, or Smog Check Repair Technician
3 license, issued to Chevrem Corporation, Fatih Tekin, President;

4 4. Ordering Chevrem Corporation, Fatih Tekin, President to pay the Bureau of
5 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
6 pursuant to Business and Professions Code section 125.3;

7 5. Revoking or suspending Smog Check Inspector License EO 26524 issued to Fatih
8 Tekin;

9 6. Revoking or suspending any additional Smog Check Station License, Smog Check
10 Inspector License, or Smog Check Repair Technician License, issued to Fatih Tekin;

11 7. Ordering Fatih Tekin to pay the Bureau of Automotive Repair the reasonable costs
12 of the investigation and enforcement of this case, pursuant to Business and Professions Code
13 section 125.3;

14 8. Revoking or suspending Smog Check Inspector License EO 633764 issued to Eren
15 Karadeli;

16 9. Revoking or suspending any additional Smog Check Station License, Smog Check
17 Inspector License, or Smog Check Repair Technician License, issued to Eren Karadeli;

18 10. Ordering Eren Karadeli to pay the Bureau of Automotive Repair the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3;

21 11. Revoking or suspending Smog Check Inspector License EO 633632 issued to
22 Mahboob Karimi;

23 12. Revoking or suspending any additional Smog Check Station License, Smog Check
24 Inspector License, or Smog Check Repair Technician License, issued to Mahboob Karimi;

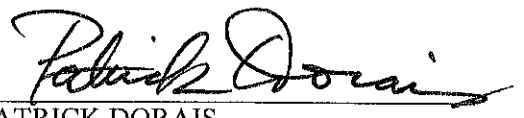
25 13. Ordering Mahboob Karimi to pay the Bureau of Automotive Repair the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3;

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

DATED: February 19, 2019


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