

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

In the Matter of the Accusation Against:

**SAMER REAF DALLOUL dba GREEN SMOG TEST ONLY**

10585 Limonite Ave.

Mira Loma, CA 91752

Automotive Repair Dealer Registration No. ARD 267478

Smog Check Test Only Station License No. TC 267478

and

**GURJEET SINGH TAKHAR**

8002 Sorrento St.

Fontana, CA 92336

Smog Check Inspector License No. EO 635097

and

**GEORGE JAY DAVIS**

9004 Baseline Rd.

Alta Loma, CA 91701

Smog Check Inspector License No. EO 634951

Respondents.

Case No. 79/17-6911

OAH No. 2019071272

**DECISION**

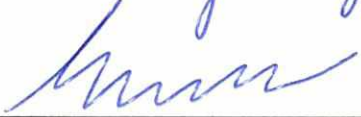
The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter, except that, pursuant to Government Code section 11517, subdivision (c)(2)(C), technical or other minor changes in the Proposed Decision are made as follows:

1. Page 3, paragraph 2: "TC 634951" is corrected to "EA 634951."

The technical or minor change made above does not affect the factual or legal basis of the Proposed Decision.

This Decision shall be effective on March 11, 2020.

IT IS SO ORDERED this 31 day of January, 2020.

  
\_\_\_\_\_  
GRACE ARUPO RODRIGUEZ  
Assistant Deputy Director  
Legal Affairs Division  
Department of Consumer Affairs

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DEPARTMENT OF CONSUMER AFFAIRS  
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**SAMER REAF DALLOUL, dba GREEN SMOG TEST ONLY**

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**and**

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**and**

**GEORGE JAY DAVIS**

**Smog Check Inspector License No. EO 634951**

**Respondents.**

**Agency Case No. 79/17-6911**

**OAH No. 2019071272**

## **PROPOSED DECISION**

Deena R. Ghaly, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on December 5, 2019, in Los Angeles.

Michelle Nijm, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

Prior to the hearing, Respondent Samer Reaf Dalloul, doing business as Green Smog Test Only (Green Smog), reached a settlement regarding the charges brought against him as set out in the Accusation's first through sixth causes for discipline. Additionally, Respondent Gurjeet Singh Takhar did not file a notice of defense contesting the charges brought against him as set out in the Accusation's 10th through 14th causes for discipline. The proposed decision addresses the charges against the only remaining respondent, George Jay Davis (Respondent) as set out in the Accusation's seventh through ninth causes for discipline.

Lotfy Mrich, Attorney, represented Respondent, who was present throughout the hearing.

## **SUMMARY**

Complainant established by a preponderance of the evidence that Respondent issued certificates of compliance to two vehicles that had not been properly smog tested. The Bureau failed to establish by a preponderance of the evidence that Respondent had acted with intent to defraud or was otherwise dishonest. Under the Bureau's disciplinary guidelines and the circumstances of the case, stayed invalidation

of registration and revocation of his licenses, and two years' probation with terms and conditions, is the appropriate disposition.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Complainant brought the Accusation solely in his official capacity. (Ex. 1.) Respondent timely requested a hearing to challenge the allegations in the Accusation and this hearing ensued. (*Ibid.*)

### **Respondent's Registration and Licenses**

2. On November 14, 2012, the Bureau issued Advanced Emission Specialist Technician License number TC 634951 to Respondent. The License was due to expire on May 31, 2014, and was cancelled on May 28, 2014. Pursuant to California Code of Regulations, title 16 (Regulation) section 3340.28, subdivision (e), the license was renewed pursuant to Respondent's election as Smog Check Inspector License Number EO 634951, effective May 28, 2014 and will expire on May 31, 2020 unless it is renewed.

### **Smog Check Procedure**

3. Beginning in March 2015, the Bureau required smog technicians to use the On-Board Diagnostic Inspection System (OIS), a type of smog check equipment, for inspections of most model-year 2000 or newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The OIS is comprised of a Data Acquisition Device (DAD), a scanner used to capture data directly from the vehicle being inspected, a computer, a Bureau code scanner, and a printer. Technicians are required

to input a unique access code the Bureau assigns to each of them and then plug the DAD into a portal within the vehicle known as the link connector. The DAD retrieves certain data relevant to the vehicle's emissions output from the vehicle's On-Board Diagnostic System, commonly referred to as the OBD II.<sup>1</sup> That information populates records in a data base accessible only by the Bureau.

4. The Bureau's database contains the smog test results as well as certain "signature" information common to vehicles of the same make, model, and year. Specifically, such vehicles will have the same "communication protocol," the electronic language the vehicle uses to communicate with scanning tools, and "parameter identifications" (PID), which are attributes of the vehicle such as engine and vehicle speed and engine temperature. Both the communication protocol and the PID are programmed in the vehicle when it is manufactured. The OIS produces a Vehicle Inspection Report (VIR), which states that the inspection followed Bureau requirements and must be signed by the smog technician who inspected the vehicle.

## **Bureau Investigation**

5. Among its duties, the Bureau monitors smog check stations and technicians for illegal methods used to circumvent the emission requirements and produce compliance certificates for vehicles not otherwise able to successfully pass the smog check process. One such method, called clean-piping, involves plugging the DAD into a surrogate vehicle or a simulator to create data demonstrating compliance with emissions standards. The practice can be detectable because other information

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<sup>1</sup> Since 1996, all new vehicles sold in the United States are required to be equipped with an OBDII.

input or scanned under the beneficiary vehicle's identification number (VIN) will not reflect a communication protocol and a PID reading consistent with what is expected for that type of vehicle make, model, and year. The scan may also report an electronic vehicle identification number (eVIN), that does not comport with the VIN physically labelled on the vehicle or that should not appear at all as vehicles manufactured prior to 2005 usually did not report an eVIN.

6. In May 2017, Bureau Program Representative Andrew Nyborg (PR Nyborg) initiated an investigation in which he reviewed OIS test data from vehicles tested at Respondent's employer at the time, Green Smog. After comparing the data received from the certified vehicles to data from vehicles of the same year, make, and model, PR Nyborg determined that the data from Green Smog contained unexpected discrepancies for nine vehicles inspected during the period between October 11, 2016 and August 11, 2107, including the following two which were performed under Respondent's license.

**VEHICLE #1 – 2005 FORD RANGER SUPER CAB, VIN NUMBER  
IFTYR14UX5PA41925**

OIS test detail reflects that on April 26, 2017, under Respondent's smog check license, Green Smog issued smog certificate number ZT827305C for a 2005 Ford Ranger Super Cab bearing VIN Number IFTYR14UX5PA41925. The test detail reflected communication protocol I914 and a PID count of 7. The expected communication protocol and PID for this vehicle are JPWM and 22 respectively.

**VEHICLE #2 – 2003 CHRYSLER PT CRUISER CLASSIC, VIN NUMBER  
3C4FY48B53T604733**

OIS test detail reflects that on August 11, 2017, under Respondent's smog check license, Green Smog issued smog certificate number HD302860CC for a 2003 Chrysler PT Cruising Classic, bearing vehicle identification number 3C4FY48B53T604733. The test detail reflected communication protocol I914 and a PID count of 5. The expected communication protocol and PID for this vehicle are JVPW and 18 or 18|3, respectively.

7. Based on the disparities between the data output from these subject vehicles and the expected data for the make, model, and year of the vehicles in question, PR Nyborg concluded that the vehicles had not been the source of the data reported and that Respondent had caused Green Smog to fraudulently issue certificates of compliance for them.

**Respondent's Testimony**

8. a. Respondent testified at the hearing, steadfastly maintaining that he did not use a simulator or otherwise manipulate the smog testing process. Respondent further stated that he is honest and has never agreed or offered to pass a vehicle that did not meet emissions standards.

b. Respondent stated that he had worked at Green Smog for just a few months in 2017. He believes he may have left his license and access code unsecured on a few discrete instances and that may have given other personnel working there the opportunity to use them to issue fraudulent compliance certificates.

c. Respondent became quite emotional during his testimony when stating that he would never risk his career and livelihood to pass two noncompliant vehicles. Respondent's testimony appeared sincere and is credited.

### **The Bureau's Investigative and Prosecutorial Costs**

9. a. Complainant submitted two declarations of costs: (i) the declaration of PR Mark Fernandez, in which he certified that the Bureau incurred \$5,045.36 for investigating the matter; and (ii) the declaration of Deputy Attorney General Michelle Nijm, in which she certified that the Department of Justice incurred costs of \$6,360 in costs for prosecuting the matter and anticipated incurring an additional \$880 for four hours of work to prepare for the hearing for a total of \$7,240. These costs are for work involved investigating and prosecuting all of the original respondents in the matter.

b. PR Fernandez's submission did not include descriptions of the work performed and therefore, does not provide sufficient information to establish whether the costs requested are reasonable. Deputy Attorney General Nijm's submission included detailed descriptions of the work performed. These costs are deemed reasonable and appropriate for the size and scope of the matter; however, only 1/3 of the total amount, \$2,413, can be attributed to Respondent's case.

c. Respondent did not introduce any evidence about his financial circumstances.

## **LEGAL CONCLUSIONS**

### **Department and Bureau Mandate**

1. Chapter 5 of the Health and Safety Code, known as the Motor Vehicle Inspection Program (Health & Saf. Code, § 44000 et seq.), vests the Department of Consumer Affairs with the responsibility to reduce vehicle emissions and the Bureau Chief with responsibility to enforce and administer its provisions. Chapter 5 of the Health and Safety Code further provides that the Department and its director, officers, and employees shall have the powers and authority set forth in Divisions 1, 1.5, and 3 of the Business and Professions Code (Bus. & Prof. Code, § 100 et seq., 475 et seq., & 9800 et seq.) as well as Chapter 33 of the California Code of Regulations (Regulation). (Reg., § 3300 et seq.).

2. Health and Safety Code section 44072.6 provides that the expiration or suspension of a license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

### **Burden of Proof and Evidentiary Requirements**

3. The applicable standard of evidence is preponderance of the evidence. (Evid. Code § 115; *Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair (Import Performance)* (2011) 201 Cal.App.4th 911, 916-17.) Preponderance of the evidence means that the existence of a particular fact is more probable than its nonexistence. (1 Witkin, Cal. Evidence (5th Ed. 2019 update) § 36).

4. The Bureau, as the party making the charges, bears the burden of proof and has the obligation to produce evidence in support of its allegations. (*Brown v. City of Los Angeles* (2002) 102 Cal.App.4th 155, 175.) Such burden applies to "each fact the

existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." (Evid. Code, § 500.)

## **Causes for Discipline**

5. a. Chapter 5 of the Health and Safety Code (Health & Saf. Code, § 44030 et seq.) constitutes the Motor Vehicle Inspections Program (MVIP). The MVIP includes Health and Safety Code section 44072.2, which states in 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 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.

b. Health and Safety Code section 44012, provides in part that tests at smog check stations shall be performed in accordance with procedures prescribed by the Department. Health and Safety Code section 44015, subdivision (b), provides that a

certificate of compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section 40012.

c. California Code of Regulations, title 16 (Regulation) section 3340.30, subdivision (a), requires licensed smog technicians to inspect vehicles in accordance with Health and Safety Code sections 44012 and 44035, and Regulation section 3340.42.

d. Health and Safety Code section 44035 provides that licenses of smog check stations and technicians may be disciplined by the department "for failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct." (Health & Saf. Code, § 44035, subd. (a).)

e. Regulation section 3340.42 requires that gasoline-powered vehicles 2000 model-year and newer be inspected with an onboard diagnostic (OBD)-focused test and references Regulation 3340.42.2's test failure criteria, which include that OBD-equipped vehicles "shall fail the OBD inspection if . . . the vehicle's OBD system data is inappropriate for the vehicle being tested." (Reg. § 3340.42.2(c)(7).)

6. Cause exists to discipline Respondent pursuant to Health and Safety Code section 44072.2, subdivision (a) (violating MVIP sections and regulations) as alleged in the seventh cause of discipline in the Accusation. By issuing certificates of compliance to vehicles which reported erroneous system data (Factual Findings 6 & 7), Respondent violated the testing criteria established by Regulation sections 3340.42 and 3340.42.2. As such, respondents violated Health and Safety Code sections 44012, requiring smog tests to be performed in accordance with applicable regulations. These violations subject respondents to discipline under Health and Safety Code section 44035. The prescriptive language of Regulation 3340.42.2 encompasses respondents'

conduct even though the evidence did not establish that respondents acted with intent. (Legal Conclusion 11.)

7. a. Regulation section 3340.24 provides the Bureau may suspend or revoke a license if the licensee falsely or fraudulently issues or obtains a certificate of compliance.

b. Regulation section 3340.35, subdivision (c), states:

A licensed 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.

c. Regulation section 3340.41, subdivision (c), states:

[N]o 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 enter into the emissions inspection system any false information about the vehicle being tested.

8. Cause exists in part to discipline Respondent's license pursuant to Health and Safety Code section 44072.2, subdivision (c) (violating MVIP regulations) as alleged in the Accusation's eighth cause for discipline. Cause does not exist to discipline Respondent's license for falsely or fraudulently issuing certificates of

compliance in violation of Regulation 3340.24, subdivision (c), or knowingly entering false information into the emission inspection system in violation of Regulation section 3340.35, subdivision (c). (Factual Findings 6 & 7 and Legal Conclusion 7.) As noted in Legal Conclusion 13 above, cause exists to discipline Respondent's license for violating Regulation section 3340.42. (Factual Finding 6 & 7 and Legal Conclusion 7-9.)

9. Cause does not exist to discipline Respondent's license for violating Health and Safety Code section 44072.2, subdivision (d)'s prohibition against committing dishonest, fraudulent, or deceitful acts as alleged in the Accusation's ninth cause for discipline. Complainant did not establish that Respondent had committed acts of dishonesty, fraud, or deceit.

### **Appropriate Level of Discipline**

10. a. Regulation section 3395.4, provides:

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of Administrative Hearings, the Bureau of Automotive Repair shall consider the disciplinary guidelines entitled "Guidelines for Disciplinary Orders and Terms of Probation" [Rev. March 2016] which are hereby incorporated by reference. The "Guidelines for Disciplinary Orders and Terms of Probation" are advisory. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Bureau of Automotive Repair in its

sole discretion determines that the facts of the particular case warrant such deviation.

b. The guidelines contain recommendations for the minimum and maximum disciplines for identified violations. Here, the only violations established by the Bureau were violations of the MVIP under Health and Safety Code section 44072.2, subdivisions (a) and (c). Under the guidelines, the recommended penalties are revocation, stayed, suspension, and two years' probation, with optional condition numbers 1 (period of suspension), 2 (restitution), 3 (training), 4 (notification to employer), and 7 (supervision requirements for matters involving owner absenteeism) as applicable.

## **Evaluation**

11. California's smog check program is designed to improve air quality and to protect the public health by reducing vehicle emissions. The State and the public rely upon smog check stations and technicians to honestly and competently conduct smog tests to ensure that vehicle emissions are reduced, and air quality is improved. Under these circumstances, licensees are held to standards and responsibilities for ensuring that smog tests are conducted correctly, even in the absence of intentional or negligent conduct.

12. Under the guidelines, stayed revocation of Respondent's license with two years' probation is an appropriate penalty. Regarding the optional terms, a period of suspension is deemed unduly harsh. With the exception of optional condition 3, training, the other optional terms recommended for the upheld charges in this matter are not applicable.

## Cost Recovery

13. Business and Professions Code section 125.3 provides in part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding . . . the board may request the administrative law judge to direct a licensee found to have committed a violation . . . of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

[¶] . . . [¶]

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate

the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

14. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court addressed whether cost recovery could chill licensees from exercising their rights to challenge disciplinary actions through the administrative adjudication process. The Court determined that five factors should be considered in determining whether a particular licensee should be ordered to pay the reasonable costs of investigation and prosecution under statutes like Business and Professions Code section 125.3: Whether the licensee has been successful at hearing in having charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Ibid.*)

15. Here, Respondent was successful in substantially reducing the number of charges upheld, appeared to have a good faith belief in the merits of his position, and raised colorable (and credited) challenges to the proposed discipline. Notwithstanding, certain of the charges have been upheld and those charges implicate important issues of public health and safety. Accordingly, a reduced amount of costs should be awarded.

16. As complainant established two of the three causes for discipline, a reasonable award is deemed to be one-third of the total enforcement costs of \$2,413 or \$804.

## **ORDER**

Respondent George Jay Davis's Smog Check Inspector License Number EO 634951 is revoked. However, the revocation is stayed and respondent is placed on probation for two years on the following terms and conditions:

### **1. Cost Recovery**

Respondent shall pay to the Bureau's costs of investigation and enforcement in the amount of \$804. Respondent shall make such payment on terms acceptable to the Bureau. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six months before probation terminates. Respondent shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for case no. 79/17-6911.

Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

### **2. Obey All Laws**

During the period of probation, respondent shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by Respondent.

### **3. Quarterly Reporting**

During the period of probation, respondent shall report either by personal appearance or in writing as determined by the Bureau on a schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

### **4. Report Financial Interests**

Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which he has in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

### **5. Access to Examine Vehicles and Records**

Respondent shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

### **6. Tolling of Probation**

If, during probation, respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise cease to do business in the jurisdiction of California, he shall notify the Bureau in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements and that Respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

## **7. Violation of Probation**

If respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

## **8. Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Bureau, including any period during which suspension or probation is tolled. If respondent's license is expired at the time the decision becomes effective, it must be renewed by respondent within 30 days of that date. If respondent's license expires during a term of probation, by operation of law or otherwise, then upon renewal, the license shall be subject to any and all terms and conditions of probation

not previously satisfied. Failure to maintain a current and active registration or license during the period of probation shall also constitute a violation of probation.

## **9. Completion of Probation**

Upon successful completion of probation, respondent's affected license will be fully restored or issued without restriction, if respondent meets all current requirements for licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

## **10. License Surrender**

Following the effective date of a decision that orders a stay of invalidation or revocation, if respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondents may request that the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate the request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of the surrendered registration or license, or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If respondent applies to the Bureau for a registration or license at any time after that date, respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

DATE: January 7, 2020

DocuSigned by:  
*Deena R. Ghaly*  
5D13AC50FBAD477...

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearing

1 XAVIER BECERRA  
Attorney General of California  
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Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 79/17-6911

12 **SAMER REAF DALLOUL, DBA GREEN**  
13 **SMOG TEST ONLY**

**ACCUSATION**

14 10585 Limonite Ave.  
Mira Loma, CA 91752

15 **Automotive Repair Dealer Registration No.**  
16 **ARD 267478**  
**Smog Check Test Only Station License No. TC**  
17 **267478**

18 And

19 **GURJEET SINGH TAKHAR**

20 8002 Sorrento St.  
Fontana, CA 92336

21 **Smog Check Inspector License No. EO 635097**

22 And

23 **GEORGE JAY DAVIS**

24 9004 Baseline Rd.  
25 Alta Loma, CA 91701

26 **Smog Check Inspector License No. EO 634951**

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 (Bureau), Department of Consumer Affairs.

5  
6 **A. Automotive Repair Dealer Registration No. ARD 267478**

7 2. On or about December 19, 2011, the Bureau issued Automotive Repair Dealer  
8 Registration No. ARD 267478 to Samer Reaf Dalloul, doing business as Green Smog Test Only  
9 (Respondent Dalloul or Green Smog). Said registration was in full force and effect at all times  
10 relevant to the charges brought herein, and will expire on December 31, 2019, unless it is  
11 renewed.

12 **B. Smog Check Test Only Station License No. TC 267478**

13 3. On or about January 19, 2012, the Bureau issued Smog Check Test Only Station  
14 License No. TC 267478 to Respondent Green Smog. Said license was in full force and effect at  
15 all times relevant to the charges brought herein, and will expire on December 31, 2019, unless it  
16 is renewed.

17 **C. STAR Certification**

18 4. On or about July 28, 2015, the Bureau certified Respondent Green Smog as a STAR  
19 Station. The certification has no expiration date and will remain active unless Respondent Green  
20 Smog's Automotive Repair Dealer registration and/or Smog Check Test Only Station license is  
21 revoked, canceled, or becomes delinquent.

22 **D. Smog Check Inspector License No. EO 635097**

23 5. On or about January 7, 2013, the Bureau issued Smog Check Inspector license  
24 number EO 635097 to Gurjeet Singh Takhar (Respondent Takhar). Said license was in full force  
25 and effect at all times relevant to the charges brought herein, and will expire on February 28,  
26 2019, unless it is renewed.

27 **E. Smog Check Inspector License No. EO 634951**

28 6. On or about November 14, 2012, the Bureau of Automotive Repair issued Advanced

1 Emission Specialist (EA) Technician License No. 634951 to George Jay Davis (Respondent  
2 Davis). License Number EA 634951 was due to expire on May 31, 2014 and was cancelled on or  
3 about May 28, 2014. Pursuant to California Code of Regulations, title 16 section 3340.28,  
4 subdivision (e), said license was renewed pursuant to Respondent Davis' election as Smog Check  
5 Inspector License No. EO 634951<sup>1</sup>, effective on or about May 28, 2014. Said license was in full  
6 force and effect at all times relevant to the charges brought herein and will expire on May 31,  
7 2020, unless it is renewed.

### 8 JURISDICTION

9 7. Business and Professions Code section 9884.7 provides that the Director may revoke  
10 an automotive repair dealer registration.

11 8. Business and Professions Code section 9884.13 provides, in pertinent part, that the  
12 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a  
13 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or  
14 permanently invalidating (suspending or revoking) a registration.

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

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

### 22 STATUTES

23 11. Business and Professions Code section 9884.7 states, in pertinent part:

24 (a) The director, where the automotive repair dealer cannot show there was a  
25 bona fide error, may refuse to validate, or may invalidate temporarily or permanently,  
26 the registration of an automotive repair dealer for any of the following acts or  
omissions related to the conduct of the business of the automotive repair dealer,

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

1 which are done by the automotive repair dealer or any automotive technician,  
2 employee, partner, officer, or member of the automotive repair dealer.

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

6 . . . .

7 (4) Any other conduct that constitutes fraud.

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

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

17 12. Business and Professions Code section 477 provides, in pertinent part, that "Board"  
18 includes "bureau," "commission," "committee," "department," "division," "examining  
19 committee," "program," and "agency." "License" includes certificate, registration or other means  
20 to engage in a business or profession regulated by the Bus. & Prof. Code.

21 13. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog  
22 check stations shall be performed in accordance with procedures prescribed by the department.

23 14. Health and Safety Code section 44015, subdivision (b), provides that a certificate of  
24 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section  
25 40012.

26 15. Health and Safety Code section 44072.2 states, in pertinent part:

27 The director may suspend, revoke, or take other disciplinary action against a  
28 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.

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

2 16. Health and Safety Code section 44072.10 states, in pertinent part:

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

6 . . .  
7 (4) Intentional or willful violation of this chapter or any regulation, standard,  
or procedure of the department implementing this chapter . . .

8 17. Health and Safety Code section 44072.8 states that when a license has been revoked  
9 or suspended following a hearing under this article, any additional license issued under this  
10 chapter in the name of the licensee may be likewise revoked or suspended by the Director.

### 11 REGULATIONS

12 18. California Code of Regulations, title 16, section 3373 states:

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

17 19. California Code of Regulations, title 16, section 3340.15, subdivision (e), requires  
18 licensed smog check stations to maintain records of all certificates of compliance and  
19 noncompliance in stock and/or issued, repair orders relating to inspection and repair activities,  
20 and vehicle inspection reports generated either manually or by the emissions inspection system.

21 20. California Code of Regulations, title 16, section 3340.15, subdivision (h), prohibits a  
22 licensed smog check station from subletting inspections or repairs required as part of the Smog  
23 Check Program.

24 21. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

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

28 22. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a

1 licensed smog technician shall at all times:

2 [i]nspect, test and repair vehicles, as applicable, in accordance with section  
3 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and  
section 3340.42 of this article.

4 23. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a  
5 licensed smog check station:

6 shall issue a certificate of compliance or noncompliance to the owner or operator of  
7 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  
8 installed and functioning correctly.

9 24. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that:

10 [n]o person shall enter into the emissions inspection system any vehicle  
11 identification information or emission control system identification data for any  
12 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.

13 25. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions  
14 test methods and procedures which apply to all vehicles inspected in the State of California.

#### 15 **COST RECOVERY**

16 26. Business and Professions Code section 125.3 provides, in pertinent part, that the  
17 Bureau may request the administrative law judge to direct a licentiate found to have committed a  
18 violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
19 and enforcement of the case.

#### 20 **VID DATA REVIEW**

21 27. On March 9, 2015, the Bureau implemented a policy change requiring the use of  
22 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas  
23 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer  
24 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in  
25 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in  
26 addition to communication protocol (the language used to communicate) and Parameter ID (PID)  
27 differences with vehicles that have been certified correctly that are the same make and model  
28 vehicles.

28. On or about May 2, 2017, Bureau representative Andrew Nyborg initiated an investigation in which he reviewed OIS test data for Respondent Green Smog. Representative Andrew Nyborg's investigation revealed that the data related to certain vehicles certified by Respondent Green Smog contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the subject vehicles. Specifically, representative Andrew Nyborg compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from the nine certified vehicles contained two or more of the following unmistakable discrepancies: (1) missing or incorrect eVINs; (2) incorrect vehicle communication protocols; and (3) incorrect PID counts. These documented discrepancies confirm that the vehicles receiving smog certificates from Respondent Green Smog were fraudulently tested during the smog inspection using the clean plugging method. Clean plugging refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance or were not present for testing.

29. The following table illustrates the documented clean plugging activities of Respondents from October 11, 2016 through August 11, 2017.

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	10/11/16	2001 Volvo S60 2.4T VIN: YV1RS58D012029391	QG032302C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: 1914 (Expected: 1914)  PID Count: 7 (Expected: 15 or 18 1)  eVIN: Reported, But Not Expected

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
2.	10/29/16	2004 Hyundai Santa Fe GLS/LX VIN: KM8SC13E04U662684	QG436469C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: 1914 (Expected: KWPF)  PID Count: 7 (Expected: 20)  eVIN: Reported, But Not Expected
3.	11/5/16	2006 Chrysler Sebring Touring VIN: 1C3EL56RX6N188557	QG436487C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: 1914 (Expected: JVPW)  PID Count: 7 (Expected: 22 3)  eVIN: Reported as Expected
4.	11/14/16	2001 GMC New Sierra K1500 VIN: 2GTEK19T611237794	ZJ989865C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: 1914 (Expected: JVPW)  PID Count: 8 (Expected: 22 or 23)  eVIN: Reported as Expected
5.	12/2/16	2003 Chevrolet Silverado C1500 VIN: 2GCEC19TX31169659	ZL305021C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: 1914 (Expected: JVPW)  PID Count: 8 (Expected: 22)  eVIN: Reported as Expected

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
6.	3/22/17	2002 Honda CR-V EX VIN: JHLRD78872C015761	ZR615753C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: I914 (Expected: I914)  PID Count: 7 (Expected: 16 or 17)  eVIN: Reported, But Not Expected
7.	3/30/17	2005 Toyota Sequoia Limited VIN: 5TDZT38A85S256596	ZR615800C	Respondent Gurjeet Singh Takhar  (EO 635097)	Comm. Protocol: I914 (Expected: ICAN11bt5)  PID Count: 7 (Expected: 45)  eVIN: Reported as Expected
8.	4/26/17	2005 Ford Ranger Super Cab VIN: 1FTYR14UX5PA41925	ZT827305C	Respondent George Jay Davis  (EO 634951)	Comm. Protocol: I914 (Expected: JPWM)  PID Count: 7 (Expected: 22)  eVIN: Reported as Expected
9.	8/11/17	2003 Chrysler PT Cruiser Classic VIN: 3C4FY48B53T604733	HD302860CC	Respondent George Jay Davis  (EO 634951)	Comm. Protocol: I914 (Expected: JVPW)  PID Count: 5 (Expected: 18 or 18 3)  eVIN: Reported as Expected

30. The data analysis conducted on Respondent Green Smog (covering a period from

1 October 11, 2016 through August 11, 2017) shows that Respondents participated in a scheme to  
2 perform nine fraudulent Smog Check inspections resulting in the issuance of nine fraudulent  
3 electronic Smog Check Certificates of Compliance.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 **(As to Automotive Repair Dealer Registration No. ARD 267478)**

7 31. Respondent Dalloul has subjected his Automotive Repair Dealer Registration to  
8 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),  
9 in that Respondent Dalloul and/or his employees or agents made statements which were known to  
10 be untrue or misleading or, which by exercise of reasonable care should have been known to be  
11 untrue or misleading, when issuing electronic smog certificates of compliance for the vehicles set  
12 forth in paragraph 29, above.

13 32. Respondent Dalloul and/or his employees or agents certified that the nine vehicles  
14 identified in paragraph 29 above had passed inspection and were in compliance with applicable  
15 laws and regulations. In fact, Respondent Dalloul and/or his employees or agents conducted the  
16 inspections of the nine vehicles identified in paragraph 29 above using clean-plugging methods in  
17 that Respondent Dalloul and/or his employees or agents substituted or used a different vehicle(s),  
18 or another source, during the OBD II functional tests in order to issue smog certificates of  
19 compliance for the vehicles. Respondent Dalloul and/or his employees or agents did not test or  
20 inspect any of the nine vehicles as required by Health and Safety Code section 44012.

21 Complainant realleges paragraphs 27 through 30.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Fraud)**

24 **(As to Automotive Repair Dealer Registration No. ARD 267478)**

25 33. Respondent Dalloul has subjected his Automotive Repair Dealer Registration to  
26 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),  
27 in that Respondent Dalloul and/or his employees or agents committed acts that constitute fraud by  
28 issuing electronic smog certificates of compliance for the nine vehicles identified in paragraph 29

1 above, without performing bona fide inspections of the emission control devices and systems on  
2 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
3 the Motor Vehicle Inspection Program. Complainant realleges paragraphs 27 through 30

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Material Violation of Automotive Repair Act)**

6 **(As to Automotive Repair Dealer Registration No. ARD 267478)**

7 34. Respondent Dalloul has subjected his Automotive Repair Dealer Registration to  
8 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),  
9 in that Respondent Dalloul and/or his employees or agents failed in a material respect to comply  
10 with the provisions of this chapter or regulations adopted pursuant to it when Respondent Dalloul  
11 and/or his employees or agents issued electronic certificates of compliance for the nine vehicles  
12 identified in paragraph 29 above, without performing bona fide inspections of the emission  
13 control devices and systems on those vehicles, thereby depriving the People of the State of  
14 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
15 realleges paragraphs 27 through 30.

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 **(As to Smog Check Test Only Station License No. TC 267478)**

19 35. Respondent Dalloul has subjected his Smog Check Test Only Station License to  
20 disciplinary action pursuant to Health and Safety Code section 44072.10, subdivision (c), and  
21 Health and Safety Code section 44072.2, subdivision (a), in that Respondent Dalloul and/or his  
22 employees or agents violated the following sections of that Code:

23 a. **Section 44012:** Respondent Dalloul and/or his employees or agents failed to ensure  
24 that the emission control tests were performed on the nine vehicles identified in paragraph 29  
25 above, in accordance with procedures prescribed by the department.

26 b. **Section 44015:** Respondent Dalloul and/or his employees or agents issued electronic  
27 smog certificates of compliance for the nine vehicles identified in paragraph 29 above, without  
28 ensuring that the vehicles were properly tested and inspected to determine if they were in

1 compliance with Health and Safety Code section 44012.

2 Complainant realleges paragraphs 27 through 30.

3 **FIFTH CAUSE FOR DISCIPLINE**

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

5 **(As to Smog Check Test Only Station License No. TC 267478)**

6 36. Respondent Dalloul has subjected his Smog Check Test Only Station License to  
7 disciplinary action pursuant to Health and Safety Code section 44072.10, subdivision (c), and  
8 Health and Safety Code section 44072.2, subdivision (c), in that Respondent Dalloul and/or his  
9 employees or agents violated provisions of California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Dalloul and/or his employees or agents  
11 falsely or fraudulently issued electronic smog certificates of compliance for the nine vehicles  
12 identified in paragraph 29 above.

13 b. **Section 3340.35, subdivision (c):** Respondent Dalloul and/or his employees or agents  
14 issued electronic smog certificates of compliance for the nine vehicles identified in paragraph 29  
15 above, even though the vehicles had not been inspected in accordance with section 3340.42.

16 c. **Section 3340.41, subdivision (c):** Respondent Dalloul and/or his employees or agents  
17 knowingly entered false information into the emissions inspection system for the nine vehicles  
18 identified in paragraph 29 above.

19 d. **Section 3340.42:** Respondent Dalloul and/or his employees or agents failed to ensure  
20 that the required smog tests were conducted on the nine vehicles identified in paragraph 29 above,  
21 in accordance with the Bureau's specifications.

22 e. **Section 3373:** Respondent Dalloul and/or his employees or agents inserted statements  
23 or information in records required to be maintained by California Code of Regulations, title 16,  
24 section 3340.15, subdivision (e), that would cause said records to be false or misleading or would  
25 tend to mislead or deceive customers, prospective customers, or the public.

26 Complainant realleges paragraphs 27 through 30.

27 ///

28 ///

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 **(As to Smog Check Test Only Station License No. TC 267478)**

4 37. Respondent Dalloul has subjected his Smog Check Test Only Station License to  
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
6 Respondent Dalloul and/or his employees or agents committed dishonest, fraudulent, or deceitful  
7 acts whereby another was injured by issuing electronic smog certificates of compliance for the  
8 nine vehicles identified in paragraph 29 above, without performing bona fide inspections of the  
9 emission control devices and systems on the vehicles, thereby depriving the People of the State of  
10 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
11 realleges paragraphs 27 through 30.

12 **SEVENTH CAUSE FOR DISCIPLINE**

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

14 **(As to Smog Check Inspector License No. EO 634951)**

15 38. Respondent Davis' Smog Check Inspector License is subject to disciplinary action  
16 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Davis  
17 failed to comply with section 44012 of that Code in a material respect, as follows: Respondent  
18 Davis failed to perform the emission control tests on two of the vehicles identified in paragraph  
19 29 above, in accordance with procedures prescribed by the department. Complainant realleges  
20 paragraphs 27 through 30.

21 **EIGHTH CAUSE FOR DISCIPLINE**

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

23 **(As to Smog Check Inspector License No. EO 634951)**

24 39. Respondent Davis' Smog Check Inspector License is subject to disciplinary action  
25 pursuant to Health and Safety Code section 44072.10, subdivision (c), and Health and Safety  
26 Code section 44072.2, subdivision (c), in that Respondent Davis violated provisions of California  
27 Code of Regulations, title 16, as follows:

28 a. **Section 3340.24, subdivision (c):** Respondent Davis falsely or fraudulently issued

1 electronic smog certificates of compliance for two of the vehicles identified in paragraph 29  
2 above.

3 b. **Section 3340.30, subdivision (a):** Respondent Davis failed to inspect and test two of  
4 the vehicles identified in paragraph 29 above, in accordance with Health and Safety Code sections  
5 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

6 c. **Section 3340.41, subdivision (c):** Respondent Davis knowingly entered false  
7 information into the emissions inspection system for two of the vehicles identified in paragraph  
8 29 above.

9 d. **Section 3340.42:** Respondent Davis failed to conduct the required smog tests on two  
10 of the vehicles identified in paragraph 29 above, in accordance with the Bureau's specifications.

11 e. **Section 3373:** Respondent Davis inserted statements or information in records  
12 required to be maintained by California Code of Regulations, title 16, section 3340.15,  
13 subdivision (e), that would cause said records to be false or misleading or would tend to mislead  
14 or deceive customers, prospective customers, or the public.

15 Complainant realleges paragraphs 27 through 30.

16 **NINTH CAUSE FOR DISCIPLINE**

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

18 **(As to Smog Check Inspector License No. EO 634951)**

19 40. Respondent Davis' Smog Check Inspector License is subject to disciplinary action  
20 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Davis  
21 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing  
22 electronic smog certificates of compliance for two of the vehicles identified in in paragraph 29  
23 above, without performing bona fide inspections of the emission control devices and systems on  
24 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
25 the Motor Vehicle Inspection Program. Complainant realleges paragraphs 27 through 30.

26 ///

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1 e. **Section 3373:** Respondent Takhar inserted statements or information in records  
2 required to be maintained by California Code of Regulations, title 16, section 3340.15,  
3 subdivision (e), that would cause said records to be false or misleading or would tend to mislead  
4 or deceive customers, prospective customers, or the public.

5 Complainant realleges paragraphs 27 through 30.

6 **TWELFTH CAUSE FOR DISCIPLINE**

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

8 **(As to Smog Check Inspector License No. EO 635097)**

9 43. Respondent Takhar's Smog Check Inspector License is subject to disciplinary action  
10 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Takhar  
11 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing  
12 electronic smog certificates of compliance for seven of the vehicles identified in in paragraph 29  
13 above, without performing bona fide inspections of the emission control devices and systems on  
14 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
15 the Motor Vehicle Inspection Program. Complainant realleges paragraphs 27 through 30.

16 **THIRTEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Pay Fine/Comply with an Order of Abatement)**

18 44. Respondent Takhar's Smog Check Inspector License is subject to disciplinary action  
19 pursuant to Health and Safety Code section 44050, subdivision (e), in that Respondent failed to  
20 comply with the following citation:

21 a. On or about August 12, 2016, the Bureau issued Citation No. M2016-1562 to  
22 Respondent Takhar for violation of Health and Safety Code section 44032. On or about August  
23 25, 2016, the Bureau served Respondent Takhar with Citation No. M2016-1562. Citation No.  
24 M2016-1562 contained an Order of Abatement and required that Respondent Takhar pay a five  
25 hundred dollar (\$500) administrative fine and complete an eight (8) hour BAR certified retraining  
26 course. Respondent Takhar requested an informal appeal of Citation No. M2016-1562. Citation  
27 No. M2016-1562 was affirmed on or about September 30, 2016 and was reissued on or about  
28 October 10, 2016. On or about November 10, 2016, Respondent Takhar formally appealed

1 Citation No. M2016-1562, but he withdrew his appeal on or about October 10, 2017. Respondent  
2 Takhar has not paid the administrative fine or completed the training required by Citation No.  
3 M2016-1562.

#### 4 **FOURTEENTH CAUSE FOR DISCIPLINE**

##### 5 **(Failure to Complete Training)**

6 45. Respondent Takhar's Smog Check Inspector License is subject to disciplinary action  
7 pursuant to Health and Safety Code section 44072.2, in conjunction with Health and Safety Code  
8 section 44045.6, subdivision (c) and California Code of Regulations, title 16, section 3340.24,  
9 subdivision (d), in that Respondent failed to complete the training required by Citation No.  
10 M2016-1562. Complainant realleges paragraph 44a.

#### 11 **CITATION HISTORY**

12 46. To determine the degree of discipline, if any, to be imposed on Respondent Green  
13 Smog, Complainant alleges that, on or about on or about August 12, 2016, the Bureau issued  
14 Citation No. C2016-1561 to Respondent Green Smog and ordered Respondent Green Smog to  
15 pay a citation fine of \$1000. Respondent appealed the citation, and a hearing was held on  
16 October 11, 2017. The Administrative Law Judge issued a Proposed Decision upholding the  
17 citation but reducing the fine to \$500. On or about December 20, 2017, the Director of Consumer  
18 Affairs adopted the Proposed Decision as the Decision in the matter, and it took effect on or about  
19 February 9, 2018. Payment of \$500 was received on or about March 13, 2018.

#### 20 **OTHER MATTERS**

21 47. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the  
22 Director may suspend, revoke, or place on probation the registration for all places of business  
23 operated in this state by Respondent Samer Reaf Dalloul, doing business as Green Smog Test  
24 Only, upon a finding that Respondent Dalloul has, or is, engaged in a course of repeated and  
25 willful violations of the laws and regulations pertaining to an automotive repair dealer.

26 48. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
27 Station License No. TC 267478, issued to Samer Reaf Dalloul, doing business as Green Smog  
28 Test Only, is revoked or suspended following a hearing under this article, any additional license

1 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said  
2 licensee may be likewise revoked or suspended by the Director.

3 49. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
4 License No. EO 635097, issued to Respondent Gurjeet Singh Takhar, is revoked or suspended  
5 following a hearing under this article, any additional license issued under Chapter 5 of Part 5 of  
6 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked  
7 or suspended by the Director.

8 50. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
9 License No. EO 634951, issued to Respondent George Jay Davis, is revoked or suspended  
10 following a hearing under this article, any additional license issued under Chapter 5 of Part 5 of  
11 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked  
12 or suspended by the Director.

13 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 267478,  
17 issued to Samer Reaf Dalloul, doing business as Green Smog Test Only;

18 2. Revoking or suspending any other automotive repair dealer registration issued to  
19 Samer Reaf Dalloul;

20 3. Revoking or suspending Smog Check Test Only Station License No. TC 267478,  
21 issued to Samer Reaf Dalloul, doing business as Green Smog Test Only;

22 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
23 Division 26 of the Health and Safety Code in the name of Samer Reaf Dalloul;

24 5. Revoking or suspending Smog Check Inspector License No. EO 634951, issued to  
25 George Jay Davis;

26 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
27 Division 26 of the Health and Safety Code in the name of George Jay Davis;  
28

1        7.    Revoking or suspending Smog Check Inspector License No. EO 635097, issued to  
2 Gurjeet Singh Takhar;

3        8.    Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
4 Division 26 of the Health and Safety Code in the name of Gurjeet Singh Takhar;

5  
6        9.    Ordering Samer Reaf Dalloul, doing business as Green Smog Test Only, George Jay  
7 Davis, and Gurjeet Singh Takhar to pay the Director of Consumer Affairs the reasonable costs of  
8 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
9 125.3; and,

10       10.   Taking such other and further action as deemed necessary and proper.  
11  
12

13  
14 DATED: May 16, 2019



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

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