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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 No. 79/15-61

**LEILA S. SASSINE, OWNER, DBA
JOJOS TEST ONLY
10557 1/2 Magnolia Avenue
Riverside, CA 92505
Automotive Repair Dealer
Reg. No. ARD 266225
Smog Check-Test Only Station License No.
TC 266225**

**DEFAULT DECISION AND ORDER AS
TO RESPONDENTS LEILA S. SASSINE,
OWNER, DBA JOJOS TEST ONLY,
WISSAM ATALLAH, AND ABDULATIF
GHASSAN HARB ONLY**

**WISSAM ATALLAH
1729 Manitoba Circle
Corona, CA 92882
Smog Check Inspector
License No. EO 631269**

[Gov. Code, §11520]

**JAMAL DANTE COULTER
P.O. Box 3003
Anaheim, CA 92803
Smog Check Inspector
License No. EO 633359
Smog Check Repair Technician License No.
EI 633359**

**ABDULATIF GHASSAN HARB
24827 Kentman Court
Wildomar, CA 92595
Smog Check Inspector
License No. EO 635520**

Respondents.

FINDINGS OF FACT

1
2 1. On or about October 29, 2014, Complainant Patrick Dorais, in his official capacity as
3 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
4 No. 79/15-61 against Respondents Leila S. Sassine, Owner, DBA JoJos Test Only (Respondent
5 Sassine), Wissam Atallah (Respondent Atallah), Jamal Dante Coulter (Respondent Coulter), and
6 Abdulatif Ghassan Harb (Respondent Harb) before the Director of Consumer Affairs.
7 (Accusation attached as Exhibit A.)

8 **Respondent Sassine**

9 2. On or about August 12, 2011, the Bureau of Automotive Repair (Bureau) issued
10 Automotive Repair Dealer Registration (registration) No. ARD 266225 to Respondent Sassine.
11 The registration was in full force and effect at all times relevant to the charges brought in
12 Accusation No. 79/15-61 and expired on August 31, 2014. The registration has not been
13 renewed.

14 3. On or about September 8, 2011, the Bureau issued Smog Check-Test Only Station
15 License (station license) No. TC 266225 to Respondent Sassine. The station license was in full
16 force and effect at all times relevant to the charges brought in Accusation No. 79/15-61 and
17 expired on August 31, 2014. The station license has not been renewed.

18 **Respondent Atallah**

19 4. On or about August 17, 2009, the Bureau issued Advanced Emission Specialist
20 Technician License (technician license) No. EA 631269 to Respondent Atallah. The technician
21 license was in full force and effect at all times relevant to the charges brought herein. Respondent
22 Atallah's technician license was due to expire on January 31, 2014, but instead was cancelled on
23 January 30, 2014. Pursuant to Respondent Atallah's election said license was renewed as Smog
24 Check Inspector License (inspector license) No. EO 631269, effective January 30, 2014. The
25 inspector license will expire on January 31, 2016.¹

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

1 **Respondent Harb**

2 5. On or about May 13, 2013, the Bureau issued inspector license No. EO 635520 to
3 Respondent Harb. The inspector license was in full force and effect at all times relevant to the
4 charges brought herein. The inspector license expired on December 31, 2014, and has not been
5 renewed.

6 6. On or about October 31, 2014, Respondents were served by Certified and First Class
7 Mail copies of the Accusation No. 79/15-61, Statement to Respondent, Notice of Defense,
8 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
9 and 11507.7) at Respondents' addresses of record which, pursuant to Business and Professions
10 Code section 136, are required to be reported and maintained with the Bureau. Respondents'
11 addresses of record were and are:

12 Leila S. Sassine, DBA JoJos Test Only
13 10557 1/2 Magnolia Avenue
14 Riverside, CA 92505

15 Wissam Atallah
16 1729 Manitoba Circle
17 Corona, CA 92882

18 Abdulatif Ghassan Harb
19 24827 Kentman Court
20 Wildomar, CA 92595

21 7. Service of the Accusation was effective as a matter of law under the provisions of
22 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
23 124.

24 8. On or about November 24, 2014, the Certified Mail copy of Respondent Coulter's
25 aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed." On or
26 about November 12, 2014, the Certified Mail Proof of Delivery was received for Respondent
27 Harb; on or about November 4, 2014, the Certified Mail Proof of Delivery was received for
28 Respondent Atallah, and on or about December 3, 2014 the Certified Mail Proof of Delivery was
received for Respondent Sassine, DBA JoJos Test Only. No other returned mail was received,
First Class or Certified, for any Respondent.

1 9. Government Code section 11506 states, in pertinent part:

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

7 10. Respondents failed to file a Notice of Defense within 15 days after service upon them
8 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
9 79/15-61.

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

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

15 12. Pursuant to its authority under Government Code section 11520, the Director after
16 having reviewed the proof of service dated October 31, 2014, signed by Helen A. Jellen, return
17 envelopes and USPS Track & Confirm Notices, finds Respondents are in default. The Director
18 will take action without further hearing and, based on Accusation, No. 79/15-61, proof of service
19 and on the Affidavit of Bureau Representative Steve P. Koch, finds that the allegations in
20 Accusation are true.

21 13. Taking official notice of its own internal records, pursuant to Business and
22 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
23 and Enforcement is \$6,677.50 as of March 3, 2015.

24 **DETERMINATION OF ISSUES**

25 1. Based on the foregoing findings of fact, Respondent Sassine has subjected her
26 Automotive Repair Dealer Registration (registration) No. ARD 266225 to discipline.

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

28 3. The Director of Consumer Affairs is authorized to revoke Respondent's registration
based upon the following violations alleged in the Accusation to have been committed in the
period of November 1, 2012 through October 1, 2013, which are supported by the evidence
contained in the affidavit of Bureau Representative Steve P. Koch in this case:

1 a. Respondent Sassine's registration is subject to disciplinary action pursuant to
2 Code section 9884.7, subdivision (a)(1), in that on or about December 8, 2012 through July 30,
3 2013, Respondent made or authorized statements which she knew, or in the exercise of
4 reasonable care should have known, to be untrue or misleading, as follows:

5 i. Respondent certified that the vehicles in inspections had passed
6 inspection and were in compliance with applicable laws and regulations. In fact, the inspections
7 on the vehicles were unlawfully conducted using the clean piping method.

8 b. Respondent Sassine's registration is subject to disciplinary action pursuant to
9 Code section 9884.7, subdivision (a)(4), in that on or about December 8, 2012 through July 30,
10 2013, Respondent committed acts which constitute fraud, by issuing electronic smog certificates
11 of compliance for the vehicles in inspections without performing bona fide inspections of the
12 emission control devices and systems on the vehicles, thereby depriving the People of the State of
13 California of the protection afforded by the Motor Vehicle Inspection
14 Program.

15 4. Respondent Sassine has also subjected her Smog Check-Test Only Station License
16 (station license) No. TC 266225 to discipline based on the foregoing findings of fact.

17 5. The Director of Consumer Affairs is authorized to revoke Respondent's station
18 license based upon the following violations alleged in the Accusation to have been committed in
19 the period of November 1, 2012 through October 1, 2013, which are supported by the evidence
20 contained in the affidavit of Bureau Representative Steve P. Koch in this case:

21 c. Respondent Sassine's station license is subject to disciplinary action pursuant to
22 Health & Safety Code section 44072.2, subdivision (a), in that on or about December 8, 2012
23 through July 30, 2013, Respondent failed to comply with the following sections of that Code:

24 i. **Section 44012:** Respondent failed to perform the emission control tests
25 on the vehicles in inspections 1 through 15, identified above, in accordance with procedures
26 prescribed by the Department.

27 ///

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1 ii. **Section 44015(b)**: Respondent issued electronic smog certificates of
2 compliance for the vehicles in inspections 1 through 15, identified above, without ensuring that
3 the vehicles were properly tested and inspected to determine if they were in compliance with
4 Health & Safety Code section 44012.

5 d. Respondent Sassine's station license is subject to disciplinary action pursuant to
6 Health & Safety Code section 44072.2, subdivision (c), in that on or about December 8, 2012
7 through July 30, 2013, Respondent failed to comply with provisions of California Code of
8 Regulations, title 16, as follows:

9 i. **Section 3340.24(c)**: Respondent falsely or fraudulently issued electronic
10 smog certificates of compliance for the vehicles in inspections 1 through 15, identified above,
11 without performing bona fide inspections of the emission control devices and systems on those
12 vehicles as required by Health and Safety Code section 44012.

13 ii. **Section 3340.35(c)**: Respondent issued electronic smog certificates of
14 compliance for the vehicles in inspections 1 through 15, identified above, even though the
15 vehicles had not been inspected in accordance with section 3340.42.

16 iii. **Section 3340.42**: Respondent failed to conduct the required smog tests
17 and inspections on the vehicles in inspections 1 through 15, identified above, in accordance with
18 the Bureau's specifications.

19 e. Respondent Sassine's station license is subject to disciplinary action pursuant to
20 Health & Safety Code section 44072.2, subdivision (d), in that on or about December 8, 2012
21 through July 30, 2013, Respondent committed dishonest, fraudulent or deceitful acts whereby
22 another is injured by issuing electronic smog certificates of compliance for the vehicles in
23 inspections without performing bona fide inspections of the emission control devices and systems
24 on the vehicles, thereby depriving the People of the State of California of the protection afforded
25 by the Motor Vehicle Inspection Program.

26 6. Based on the foregoing findings of fact, Respondent Atallah has subjected his Smog
27 Check Inspector License (inspector license) No. EO 631269 to discipline.

28

1 7. The Director of Consumer Affairs is authorized to revoke Respondent's inspector
2 license based upon the following violations alleged in the Accusation to have been committed in
3 the period of November 1, 2012 through October 1, 2013, which are supported by the evidence
4 contained in the affidavit of Bureau Representative Steve P. Koch in this case:

5 a. Respondent Atallah's inspector license is subject to disciplinary action pursuant
6 to Health & Safety Code section 44072.2, subdivision (a), in that on or about December 26, 2012
7 through January 16, 2013, regarding the vehicles listed in inspections 1 through 5, identified
8 above, he violated sections of that Code, as follows:

9 i. **Section 44012:** Respondent Atallah failed to perform the smog check
10 inspections on the vehicles in inspections 1 through 5, identified above, in accordance with
11 procedures prescribed by the Department, pursuant to Health and Safety Code section 44013.

12 ii. **Section 44012(f):** Respondent Atallah failed to perform the visual or
13 functional test on the vehicles in inspections 1 through 5, identified above, in accordance with
14 procedures prescribed by the Department, pursuant to Health and Safety Code section 44013.

15 iii. **Section 44032:** Respondent Atallah failed to perform tests of the
16 emission control devices and systems on the vehicles in inspections 1 through 5, identified above,
17 in accordance with section 44012 of that Code, in that the vehicles had been clean plugged.

18 b. Respondent Atallah's inspector license is subject to disciplinary action pursuant
19 to Health & Safety Code section 44072.2, subdivision (c), in that on or about December 26, 2012
20 through January 16, 2013, Respondent violated regulations of the Motor Vehicle Inspection
21 program regarding California Code of Regulations, title 16, as follows:

22 i. **Section 3340.30(a):** Respondent Atallah failed to inspect and test the
23 vehicles listed in inspections 1 through 5, identified above, in accordance with Health & Safety
24 Code section 44012.

25 ii. **Section 3340.41(c):** Respondent Atallah entered information into the
26 Emissions Inspection System vehicle identification information and/or emission control system
27 identification data for vehicles other than the one being tested on the vehicles listed in inspections
28 1 through 5, identified above, in accordance with the Bureau's specifications.

1 c. Respondent Atallah's inspector license is subject to disciplinary action pursuant
2 to Health & Safety Code section 44072.2, subdivision (d), in that on or about December 26, 2012
3 through January 16, 2013, he committed dishonest, fraudulent, or deceitful acts whereby another
4 is injured, by issuing electronic smog certificates of compliance for the vehicles listed in
5 inspections 1 through 5, identified above, without performing bona fide inspections of the
6 emission control devices and systems on the vehicles, thereby depriving the People of the State of
7 California of the protection afforded by the Motor Vehicle Inspection Program.

8 8. Based on the foregoing findings of fact, Respondent Harb has subjected his Smog
9 Check Inspector License (inspector license) No. EO 635520 to discipline.

10 9. The Director of Consumer Affairs is authorized to revoke Respondent's inspector
11 license based upon the following violations alleged in the Accusation to have been committed in
12 the period of November 1, 2012 through October 1, 2013, which are supported by the evidence
13 contained in the affidavit of Bureau Representative Steve P. Koch in this case:

14 a. Respondent Harb's inspector license is subject to disciplinary action pursuant to
15 Health & Safety Code section 44072.2, subdivision (a), in that on or about June 20, 2013 through
16 July 30, 2013, regarding the vehicles listed in inspections 11 through 15, identified above, he
17 violated sections of that Code, as follows:

18 i. **Section 44012**: Respondent Harb failed to ensure that the emission
19 control tests were performed on the vehicles in accordance with procedures prescribed by the
20 Department, pursuant to Health and Safety Code section 44013.

21 ii. **Section 44012(f)**: Respondent Harb failed to perform the visual or
22 functional test on the vehicles in inspections 11 through 15, identified above, in accordance with
23 procedures prescribed by the Department, pursuant to Health and Safety Code section 44013.

24 iii. **Section 44032**: Respondent Harb failed to perform tests of the emission
25 control devices and systems on the vehicles in accordance with section 44012 of that Code, in that
26 the vehicles had been clean plugged.

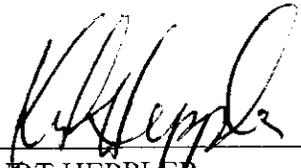
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1 Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondents. The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

7
8 This Decision shall become effective on July 26, 2016.

9 It is so ORDERED June 23, 2016

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14 KURT HEPPLER
15 Supervising Attorney
16 Division of Legal Affairs
17 Department of Consumer Affairs

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
4 State Bar No. 207031
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 79/15-61

13 **LEILA S. SASSINE, OWNER, DBA**
JOJOS TEST ONLY
14 **10557 1/2 Magnolia Avenue**
Riverside, CA 92505
15 **Automotive Repair Dealer**
Reg. No. ARD 266225
16 **Smog Check-Test Only Station License No.**
TC 266225

ACCUSATION
(SMOG CHECK)

17 **WISSAM ATALLAH**
18 **1729 Manitoba Circle**
Corona, CA 92882
19 **Smog Check Inspector**
License No. EO 631269

20 **JAMAL DANTE COULTER**
21 **P.O. Box 3003**
Anaheim, CA 92803
22 **Smog Check Inspector**
License No. EO 633359
23 **Smog Check Repair Technician License No.**
EI 633359

24 **ABDULATIF GHASSAN HARB**
25 **24827 Kentman Court**
Wildomar, CA 92595
26 **Smog Check Inspector**
License No. EO 635520

27 Respondents.
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Complainant alleges:

PARTIES

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

Automotive Repair Dealer Registration No. ARD 266225

2. On or about August 12, 2011, the Bureau issued Automotive Repair Dealer Registration Number ARD 266225 (registration) to Leila S. Sassine, Owner, doing business as JoJos Test Only (Respondent JoJos Test Only). The registration was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2014. The registration has not been renewed.

Smog Check Test Only Station License No. TC 266225

3. On or about September 8, 2011, the Bureau issued Smog Check-Test Only Station License Number TC 266225 (station license) to Respondent JoJos Test Only. The station license was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2014. The license has not been renewed.

Smog Check Inspector License No. EO 631269

4. On or about August 17, 2009, the Bureau issued Advanced Emission Specialist Technician License (technician license) Number EA 631269 to Wissam Atallah (Respondent Atallah). The technician license was in full force and effect at all times relevant to the charges brought herein. Respondent Atallah's technician license was due to expire on January 31, 2014, but instead was cancelled on January 30, 2014. Pursuant to Respondent Atallah's election said license was renewed as Smog Check Inspector License (inspector license) Number EO 631269, effective January 30, 2014. The inspector license will expire on January 31, 2016.¹

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

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...

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

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

16. Health and Safety Code Section 44012 provides, in pertinent part:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require loaded mode dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other appropriate test procedures as determined by the department in consultation with the state board. The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning no earlier than January 1, 2013. However, the department, in consultation with the state board, may prescribe alternative test procedures that include loaded mode dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems that the department and the state board determine exhibit operational problems. The department shall ensure, as appropriate to the test method, the following:

(a) Emission control systems required by state and federal law are reducing excess emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of Section 44013.

(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of the vehicle's emission control system.

(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded mode are tested in accordance with procedures prescribed by the department. In determining how loaded mode and evaporative emissions testing shall be conducted, the department shall ensure that the emission reduction targets for the enhanced program are met.

(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic compound emissions, in accordance with procedures prescribed by the department.

(e) For diesel-powered vehicles, a visual inspection is made of emission control devices and the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the department, that may include, but are not limited to, onboard diagnostic testing. The test may include testing of emissions of any or all

1 of the pollutants specified in subdivision (c) and, upon the adoption of applicable
standards, measurement of emissions of smoke or particulates, or both.

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

5 (g) A determination as to whether the motor vehicle complies with the
6 emission standards for that vehicle's class and model-year as prescribed by the
department.

7 (h) An analysis of pass and fail rates of vehicles subject to an onboard
8 diagnostic test and a tailpipe test to assess whether any vehicles passing their
onboard diagnostic test have, or would have, failed a tailpipe test, and whether any
9 vehicles failing their onboard diagnostic test have or would have passed a tailpipe
test.

10 (i) The test procedures may authorize smog check stations to refuse the
11 testing of a vehicle that would be unsafe to test, or that cannot physically be
inspected, as specified by the department by regulation. The refusal to test a
12 vehicle for those reasons shall not excuse or exempt the vehicle from compliance
with all applicable requirements of this chapter.

13 17. Health and Safety Code Section 44015 states:

14 ...

15 (b) If a vehicle meets the requirements of Section 44012, a smog check
16 station licensed to issue certificates shall issue a certificate of compliance or a
certificate of noncompliance.

17 ...

18 18. Health and Safety Code Section 44032 states:

19 No person shall perform, for compensation, tests or repairs of emission
20 control devices or systems of motor vehicles required by this chapter unless the
person performing the test or repair is a qualified smog check technician and the
21 test or repair is performed at a licensed smog check station. Qualified technicians
shall perform tests of emission control devices and systems in accordance with
22 Section 44012.

23 19. Health and Safety Code Section 44072.2 states:

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

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

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(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.

...

REGULATORY PROVISIONS

20. California Code of Regulations, title 16, section 3340.1 states:

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

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

...

21. California Code of Regulations, title 16, section 3340.3 states:

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

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

...

22. California Code of Regulations, title 16, section 3340.35 states:

...

(c) 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. . . .

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23. California Code of Regulations, title 16, section 3340.41 states:

...

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

...

24. California Code of Regulations, title 16, section 3340.42 states:

Smog check stations and smog check technicians shall conduct tests and inspections in accordance with the bureau's BAR-97 Emissions Inspection System Specifications referenced in subsections (a) and (b) of Section 3340.17 and the following:

(a) There shall be two test procedures as follows:

(1) The loaded-mode test method shall be the primary test method used in the enhanced program areas of the state. The loaded-mode test method shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions. The loaded-mode test equipment shall be Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau. The loaded-mode test procedures, including the preconditioning procedure, shall only be conducted according to the bureau approved procedures specified in this section and include the following:

(A) Place the vehicle's driving wheels on a chassis dynamometer and properly restrain the vehicle prior to commencing the test.

(B) Exhaust emissions shall be tested and compared to the emission standards set forth in this section and as shown in Table I or Table II, as applicable.

(C) With the vehicle operating, sample the exhaust system in the following sequence:

1. Accelerate the vehicle to the cruise condition as specified by the test procedures.
2. Operate the vehicle long enough to stabilize emission levels.
3. Measure and record emissions (hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen).

(2) The two-speed idle mode test method shall be used in all program areas of the state, other than the enhanced program areas. The two-speed idle mode test method shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (b) of Section 3340.17 of this article.

1 Exhaust emissions from a vehicle subject to inspection shall be tested and
2 compared to the emission standards set forth in this section and as shown in Table
3 III.

4 (3) All tests shall be performed with the engine at its normal operating
5 temperature.

6 (4) All loaded mode testing shall be conducted in a manner which does not
7 induce excess emissions to the test.

8 (b) There shall be a liquid fuel leak inspection as follows:

9 (1) As used in this section, "Liquid fuel leak" means any fuel emanating
10 from a vehicle's fuel delivery, metering, or evaporation systems in liquid form that
11 has created a visible drop or more of fuel on a component of a vehicle's fuel
12 delivery, metering, or evaporation system or has created a fuel puddle on, around,
13 or under a component of a vehicle's fuel delivery, metering, or evaporation system.

14 (2) With the engine running, the smog check technician shall visually
15 inspect the following components of the vehicle, if they are exposed and visually
16 accessible, for liquid fuel leaks:

17 (A) Gasoline fuel tanks.

18 (B) Gasoline fill pipes, associated hoses and fuel tank connections.

19 (C) Gas caps. . . .

20
21 (4) This subsection applies in all program areas statewide to vehicles requiring
22 inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

23 COST RECOVERY

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

28 FACTS

29 26. The Bureau performed a detailed review of the Vehicle Information Database (VID)
30 data for all smog check inspections requiring an On Board Diagnostics II (OBDII) functional test
31 that were performed at JoJo's Test Only shop for the period of November 1, 2012 through
32 October 1, 2013. That review showed an unusual pattern of OBDII codes being stored in the
33 Powertrain Control Module (PCM) memory of different makes and models of vehicles over the
34 testing period. 15 vehicles were looked at and determined that the vehicles did not support the

1 code that was stored in the vehicle's PCM. The vehicles were certified with pending codes stored
2 in the PCM memory that the Original Equipment Manufacturer (OEM) service information,
3 Alldata and Mitchell On Demand, shows that these codes do not apply to these vehicles. The
4 vehicles receiving smog certificates were not tested during the OBDII functional test and another
5 vehicle was used instead, which constitutes clean plugging.² The technicians entered false
6 information into the State owned computer database through the Emissions Inspection System
7 (EIS) to issue fraudulent Smog Certificates of Compliance to at least 15 different vehicles without
8 performing the required On Board Diagnostic II (OBD II) functional test.

9 **FRAUDULENT INSPECTIONS BY RESPONDENT ATALLAH:**

10 **FRAUDULENT INSPECTION NO. 1 ON DECEMBER 26, 2012**

11 27. On or about December 26, 2012, a 1996 Honda Accord was tested and a Certification
12 of Compliance No. XP283224C was issued under license smog check technician No. EA 631269
13 (Respondent Atallah). The BAR97 Test Detail shows Code P1258 was stored in the PCM
14 memory at the time of certification. Service information shows code P1258 does not apply to a
15 1996 Honda Accord.

16 **FRAUDULENT INSPECTION NO. 2 ON JANUARY 3, 2013**

17 28. On or about January 3, 2013, a 1998 Chevrolet S10 pickup was tested and a
18 Certification of Compliance No. XP283249C was issued under license smog check technician
19 No. EA 631269 (Respondent Atallah). The BAR97 Test Detail shows Code P1258 was stored in
20 the PCM memory at the time of certification. Service information shows code P1258 does not
21 apply to a 1998 Chevrolet S10 pickup.

22 **FRAUDULENT INSPECTION NO. 3 ON JANUARY 3, 2013**

23 29. On or about January 3, 2013, a 2001 Toyota Sienna was tested and a Certification of
24 Compliance No. XP432053C was issued under license smog check technician No. EA 631269
25 (Respondent Atallah). The BAR97 Test Detail shows Code P1258 was stored in the PCM

26 ² Clean plugging involves using another vehicle's properly functioning On Board
27 Diagnostic, generation II system to generate passing diagnostic readings for the purpose of
28 fraudulently issuing smog certificates to vehicles that are not in smog compliance and/or not
present for testing at the shop.

1 memory at the time of certification. Service information shows code P1258 does not apply to a
2 2001 Toyota Sienna.

3 **FRAUDULENT INSPECTION NO. 4 ON JANUARY 15, 2013**

4 30. On or about January 15, 2013, a 1996 Honda Civic was tested and a Certification of
5 Compliance No. XP432090C was issued under license smog check technician No. EA 631269
6 (Respondent Atallah). The BAR97 Test Detail shows Code P1258 was stored in the PCM
7 memory at the time of certification. Service information shows code P1258 does not apply to a
8 1996 Honda Civic.

9 **FRAUDULENT INSPECTION NO. 5 ON JANUARY 16, 2013**

10 31. On or about January 16, 2013, a 1998 Chevrolet S10 pickup was tested and a
11 Certification of Compliance No. XP432093C was issued under license smog check technician
12 No. EA 631269 (Respondent Atallah). The BAR97 Test Detail shows Code P1258 was stored in
13 the PCM memory at the time of certification. Service information shows code P1258 does not
14 apply to a 1998 Chevrolet S10 pickup.

15 **FRAUDULENT INSPECTIONS BY RESPONDENT COULTER:**

16 **FRAUDULENT INSPECTION NO. 6 ON DECEMBER 8, 2012**

17 32. On or about December 8, 2012, a 1998 Honda Accord was tested and a Certification
18 of Compliance No. XN936350C was issued under license smog check technician No. EA 633359
19 (Respondent Coulter). The BAR97 Test Detail shows Code P0705 was stored in the PCM
20 memory at the time of certification. Service information shows code P0705 does not apply to a
21 1998 Honda Accord.

22 **FRAUDULENT INSPECTION NO. 7 ON DECEMBER 8, 2012**

23 33. On or about December 8, 2012, a 2004 Dodge Ram 1500 was tested and a
24 Certification of Compliance No. XP127054C was issued under license smog check technician
25 No. EA 633359 (Respondent Coulter). The BAR97 Test Detail shows Code P0705 was stored in
26 the PCM memory at the time of certification. Service information shows code P0705 does not
27 apply to a 2004 Dodge Ram 1500.

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FRAUDULENT INSPECTION NO. 8 ON JANUARY 5, 2013

34. On or about January 5, 2013, a 2002 Isuzu Rodeo was tested and a Certification of Compliance No. XP432059C was issued under license smog check technician No. EA 633359 (Respondent Coulter). The BAR97 Test Detail shows Code P1258 was stored in the PCM memory at the time of certification. Service information shows code P1258 does not apply to a 2002 Isuzu Rodeo.

FRAUDULENT INSPECTION NO. 9 ON JANUARY 5, 2013

35. On or about January 5, 2013, a 2000 Audi A4 was tested and a Certification of Compliance No. XP432061C was issued under license smog check technician No. EA 633359 (Respondent Coulter). The BAR97 Test Detail shows Code P1296 was stored in the PCM memory at the time of certification. Service information shows code P1296 does not apply to a 2000 Audi A4.

FRAUDULENT INSPECTION NO. 10 ON FEBRUARY 1, 2013

36. On or about February 1, 2013, a 1999 Mitsubishi Eclipse was tested and a Certification of Compliance No. XP981001C was issued under license smog check inspector No. EO 633359 (Respondent Coulter). The BAR97 Test Detail shows Code P1258 was stored in the PCM memory at the time of certification. Service information shows code P1258 does not apply to a 1999 Mitsubishi Eclipse.

FRAUDULENT INSPECTIONS BY RESPONDENT HARB:

FRAUDULENT INSPECTION NO. 11 ON JUNE 20, 2013

37. On or about June 20, 2013, a 2006 Mercedes Benz E350 was tested and a Certification of Compliance No. XV470563C was issued under license smog check inspector No. EO 635520 (Respondent Harb). The BAR97 Test Detail shows Code P1404 was stored in the PCM memory at the time of certification. Service information shows code P1404 does not apply to a 2006 Mercedes Benz E350.

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1 **FRAUDULENT INSPECTION NO. 12 ON JUNE 26, 2013**

2 38. On or about June 26, 2013, a 1999 Mitsubishi Galant was tested and a Certification of
3 Compliance No. XV643104C was issued under license smog check inspector No. EO 635520
4 (Respondent Harb). The BAR97 Test Detail shows Code P0410 was stored in the PCM memory
5 at the time of certification. Service information shows code P0410 does not apply to a 1999
6 Mitsubishi Galant.

7 **FRAUDULENT INSPECTION NO. 13 ON JULY 2, 2013**

8 39. On or about July 2, 2013, a 2001 Mitsubishi Galant was tested and a Certification of
9 Compliance No. XV643145C was issued under license smog check inspector No. EO 635520
10 (Respondent Harb). The BAR97 Test Detail shows Code P0410 was stored in the PCM memory
11 at the time of certification. Service information shows code P0410 does not apply to a 2001
12 Mitsubishi Galant.

13 **FRAUDULENT INSPECTION NO. 14 ON JULY 18, 2013**

14 40. On or about July 18, 2013, a 1998 Toyota Avalon was tested and a Certification of
15 Compliance No. XV972818C was issued under license smog check inspector No. EO 635520
16 (Respondent Harb). The BAR97 Test Detail shows Code P0410 was stored in the PCM memory
17 at the time of certification. Service information shows code P0410 does not apply to a 1998
18 Toyota Avalon.

19 **FRAUDULENT INSPECTION NO. 15 ON JULY 30, 2013**

20 41. On or about July 30, 2013, a 1998 Honda Accord was tested and a Certification of
21 Compliance No. XX208451C was issued under license smog check inspector No. EO 635520
22 (Respondent Harb). The BAR97 Test Detail shows Code P0410 was stored in the PCM memory
23 at the time of certification. Service information shows code P0410 does not apply to a 1998
24 Honda Accord.

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FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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2 42. Respondent JoJos Test Only Automotive Repair Dealer Registration is subject to
3 disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about
4 December 8, 2012 through July 30, 2013, Respondent made or authorized statements which it
5 knew, or in the exercise of reasonable care should have known, to be untrue or misleading, as
6 follows: Respondent certified that the vehicles in inspections 1 through 15, identified above, had
7 passed inspection and were in compliance with applicable laws and regulations. In fact, the
8 inspections on the vehicles were unlawfully conducted using the clean plugging method.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

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11 43. Respondent JoJos Test Only Automotive Repair Dealer Registration is subject to
12 disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about
13 December 8, 2012 through July 30, 2013, Respondent committed acts which constitute fraud, by
14 issuing electronic smog certificates of compliance for the vehicles in inspections 1 through 15
15 above, without performing bona fide inspections of the emission control devices and systems on
16 the vehicles, thereby depriving the People of the State of California of the protection afforded by
17 the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Code)

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20 44. Respondent Jojos Test Only Automotive Repair Dealer Registration is subject to
21 disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that on or about
22 December 8, 2012 through July 30, 2013, Respondent failed to comply with the following Health
23 and Safety Code sections:

24 a. **Section 44012:** Respondent failed to perform the emission control tests on the
25 vehicles in inspections 1 through 15, identified above, in accordance with procedures prescribed
26 by the Department, pursuant to Health and Safety Code section 44013.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 46. Respondent JoJos Test Only Smog Check Station License is subject to disciplinary
4 action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
5 December 8, 2012 through July 30, 2013, Respondent committed dishonest, fraudulent or
6 deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for
7 the vehicles in inspections 1 through 15, identified above, without performing bona fide
8 inspections of the emission control devices and systems on the vehicles, thereby depriving the
9 People of the State of California of the protection afforded by the Motor Vehicle Inspection
10 Program.

11 SIXTH CAUSE FOR DISCIPLINE

12 (Violations of the Motor Vehicle Inspection Program)

13 47. Respondent Atallah's Smog Check Inspector License No. EO 631269 is subject to
14 disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on
15 or about December 26, 2012 through January 16, 2013, regarding the vehicles listed in
16 inspections 1 through 5, identified above, he violated sections of that Code, as follows:

17 a. Section 44012: Respondent Atallah failed to perform the smog check
18 inspections on the vehicles in inspections 1 through 5, identified above, in accordance with
19 procedures prescribed by the Department, pursuant to Health and Safety Code section 44013.

20 b. Section 44012(f): Respondent Atallah failed to perform the visual or functional test
21 on the vehicles in inspections 1 through 5, identified above, in accordance with procedures
22 prescribed by the Department, pursuant to Health and Safety Code section 44013.

23 c. Section 44032: Respondent Atallah failed to perform tests of the emission
24 control devices and systems on the vehicles in inspections 1 through 5, identified above, in
25 accordance with section 44012 of that Code, in that the vehicles had been clean plugged.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 48. Respondent Atallah's Smog Check Inspector License No. EO 631269 is subject to
4 disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on
5 or about December 26, 2012 through January 16, 2013, Respondent violated regulations of the
6 Motor Vehicle Inspection program regarding California Code of Regulations, title 16, as follows:

7 a. Section 3340.30(a): Respondent Atallah failed to inspect and test the vehicles
8 listed in inspections 1 through 5, identified above, in accordance with Health & Safety Code
9 section 44012.

10 b. Section 3340.41(c): Respondent Atallah entered information into the
11 Emissions Inspection System vehicle identification information and/or emission control system
12 identification data for vehicles other than the one being tested on the vehicles listed in inspections
13 1 through 5, identified above, in accordance with the Bureau's specifications.

14 EIGHTH CAUSE FOR DISCIPLINE

15 (Dishonesty, Fraud or Deceit)

16 49. Respondent Atallah's Smog Check Inspector License No. EO 631269 is subject to
17 disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on
18 or about December 26, 2012 through January 16, 2013, he committed dishonest, fraudulent, or
19 deceitful acts whereby another is injured, by issuing electronic smog certificates of compliance
20 for the vehicles listed in inspections 1 through 5, identified above, without performing bona fide
21 inspections of the emission control devices and systems on the vehicles, thereby depriving the
22 People of the State of California of the protection afforded by the Motor Vehicle Inspection
23 Program.

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1 NINTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 50. Respondent Coulter's Smog Check Inspector License No. EO 633359 and his Smog
4 Check Repair Technician License No. EI 633359 are subject to disciplinary action pursuant to
5 Health & Safety Code section 44072.2, subdivision (a), in that on or about December 8, 2012
6 through February 1, 2013, regarding the vehicles listed in inspections 6 through 10, identified
7 above, he violated sections of that Code, as follows:

8 a. Section 44012: Respondent Coulter failed to ensure that the emission control
9 tests were performed on the vehicles in inspections 6 through 10, identified above, in accordance
10 with procedures prescribed by the Department, pursuant to Health and Safety Code section
11 44013.

12 b. Section 44012(f): Respondent Coulter failed to perform the visual or
13 functional test on the vehicles in inspections 6 through 10, identified above, in accordance with
14 procedures prescribed by the Department, pursuant to Health and Safety Code section 44013.

15 c. Section 44032: Respondent Coulter failed to perform tests of the emission
16 control devices and systems on the vehicles in inspections 6 through 10, identified above, in
17 accordance with Health and Safety Code section 44012, in that the vehicles had been clean
18 plugged.

19 TENTH CAUSE FOR DISCIPLINE

20 (Violation of the Motor Vehicle Inspection Program)

21 51. Respondent Coulter's Smog Check Inspector License No. EO 633359 and his Smog
22 Check Repair Technician License No. EI 633359 are subject to disciplinary action pursuant to
23 Health & Safety Code section 44072.2, subdivision (c), in that on or about December 8, 2012
24 through February 1, 2013, regarding the vehicles listed in inspections 6 through 10, he failed to
25 comply with provisions of California Code of Regulations, title 16, as follows:

26 a. Section 3340.30(a): Respondent Coulter failed to inspect and test the vehicles listed
27 in inspections 6 through 10, identified above, in accordance with Health & Safety Code section
28 44012.

1 c. Section 44032: Respondent Harb failed to perform tests of the emission
2 control devices and systems on the vehicles in accordance with section 44012 of that Code, in that
3 the vehicles had been clean plugged.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

6 54. Respondent Harb's Smog Check Inspector License No. EO 635520 is subject to
7 disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on
8 or about June 20, 2013 through July 30, 2013, regarding the vehicles listed in inspections 11
9 through 15, identified above, he failed to comply with provisions of California Code of
10 Regulations, title 16, as follows:

11 a. Section 3340.30(a): Respondent Harb failed to inspect and test the vehicles listed in
12 inspections 11 through 15, identified above, in accordance with Health & Safety Code section
13 44012.

14 b. Section 3340.41(c): Respondent Harb entered information into the Emissions
15 Inspection System vehicle identification information and/or emission control system
16 identification data for vehicles other than the one being tested on the vehicles listed in inspections
17 11 through 15, identified above, in accordance with the Bureau's specifications.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

20 55. Respondent Harb's Smog Check Inspector License No. EO 635520 is subject to
21 disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on
22 or about June 20, 2013 through July 30, 2013, regarding the vehicles listed in inspections 11
23 through 15, he committed dishonest, fraudulent, or deceitful acts whereby another is injured, by
24 issuing electronic smog certificates of compliance for the vehicles listed in inspections 11 through
25 15, identified above, without performing bona fide inspections of the emission control devices
26 and systems on the vehicles, thereby depriving the People of the State of California of the
27 protection afforded by the Motor Vehicle Inspection Program.

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OTHER MATTERS

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56. Pursuant to Code section 9884.7, subdivision (c), the Director may deny, suspend, revoke, or place on probation the registration for all places of business operated in this state by Leila A. Sassine, upon a finding that she has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

57. Pursuant to Health & Safety Code section 44072.8, if Leila A. Sassine's Smog Check-Test Only Station License No. TC 266225 issued to her, doing business as JoJos Test Only, is revoked or suspended, any additional license issued under Chapter 5 of the Health and Safety Code (Motor Vehicle Inspection Program) in the name of said licensee may be likewise revoked or suspended by the Director.

58. Pursuant to Health and Safety Code section 44072.8, if Respondent Atallah's inspector license, currently designated as Smog Check Inspector License No. EO 631269 is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

59. Pursuant to Health and Safety Code section 44072.8, if Respondent Coulter's technician licenses, currently designated as Smog Check Inspector License No. EO 633359 and Smog Check Repair Technician License No. EI633359, are revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

60. Pursuant to Health and Safety Code section 44072.8, if Respondent Harb's inspector license, currently designated as Smog Check Inspector License No. EO 635520 is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

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1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
5 266225 issued to JoJos Test Only, Leila S. Sassine, Owner.

6 2. Revoking or suspending Smog Check-Test Only Station License Number TC 266225
7 issued to JoJos Test Only, Leila S. Sassine, Owner;

8 3. Ordering Leila S. Sassine to pay the Bureau of Automotive Repair the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;

11 4. Revoking or suspending Smog Check Inspector License Number EO 631269 issued
12 to Wissam Atallah;

13 5. Revoking or suspending Smog Check Inspector License Number EO 633359 issued
14 to Jamal Dante Coulter;

15 6. Revoking or suspending Smog Check Repair Technician License Number EI 633359
16 issued to Jamal Dante Coulter;

17 7. Revoking or suspending Smog Check Inspector License Number EO 635520 issued
18 to Abdulatif Ghassan Harb; and

19 8. Taking such other and further action as deemed necessary and proper.
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21 DATED: October 29, 2014 Patrick Dorais

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

28 SD2014707044
JoJo's Accusation.pdf.docx