

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

In the Matter of the Accusation/Petition to Revoke
Probation Against:

CHULA VISTA SERVICE CENTER;
SAMAD SAM ATTISHA, Owner
899 Third Avenue
Chula Vista, CA 91911

Automotive Repair Dealer Registration
No. ARD 189574
Smog Check Station License No. RC 189574

Respondent.

Case No. 79/09-01

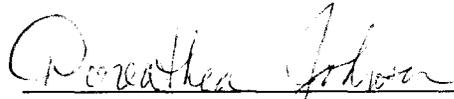
OAH No. 2009061282

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective 4-4-11.

DATED: February 28, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

14 **CHULA VISTA SERVICE CENTER;**
15 **SAMAD SAM ATTISHA, OWNER**
16 **899 Third Avenue**
17 **Chula Vista, CA 91911**

18 **Automotive Repair Dealer Registration No.**
19 **ARD 189574**
20 **Smog Check Station License No. RC 189574**

21 Respondent.

Case No. 79/09-01

OAH No. 2009061282

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

22 In the interest of a prompt and speedy resolution of this matter, consistent with the public
23 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
24 Automotive Repair, the parties hereby agree to the following Stipulated Revocation and
25 Disciplinary Order which will be submitted to the Director for her approval and adoption as the
26 final disposition of the Accusation and Petition to Revoke Probation.

27 **PARTIES**

28 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
brought this action solely in her official capacity and is represented in this matter by Edmund G.

1 Brown Jr., Attorney General of the State of California, by Karen L. Gordon, Deputy Attorney
2 General.

3 2. Chula Vista Service Center, Samad Sam Attisha, Owner (Respondent) is represented
4 in this proceeding by Attorney Steven F. Lopez, whose address is 817 West San Marcos
5 Boulevard, San Marcos, CA 92078.

6 3. On or about June 20, 1996, the Bureau of Automotive Repair issued Automotive
7 Repair Dealer Registration No. ARD 189574 to Samad Sam Attisha (Respondent), owner of
8 Chula Vista Shell. On or about September 2001, Respondent's business name was changed to
9 Chula Vista Service Center. On October 30, 2006, Respondent's Automotive Repair Dealer
10 Registration was revoked; however, the revocation was stayed and Respondent was placed on
11 probation for three (3) years on terms and conditions. Respondent's Automotive Repair Dealer
12 Registration was suspended for ten (10) days effective October 30, 2006. Respondent's
13 Automotive Repair Dealer Registration will expire on June 30, 2010, unless renewed.

14 3. On or about July 10, 1996, the Bureau of Automotive Repair issued Smog Check
15 Station License No. RC 189574 to Chula Vista Service Center; Samad Sam Attisha, Owner
16 (Respondent). The License was in full force and effect at all times relevant to the charges
17 brought in Accusation/Petition to Revoke Probation No. 79/09-01 and will expire on June 30,
18 2010, unless renewed.

19 **JURISDICTION**

20 4. Accusation/Petition to Revoke Probation No. 79/09-01 was filed before the Director
21 of Consumer Affairs (Director) for the Bureau of Automotive Repair (Bureau), and is currently
22 pending against Respondent. The Accusation/Petition to Revoke Probation and all other
23 statutorily required documents were properly served on Respondent on July 29, 2008.
24 Respondent timely filed its Notice of Defense contesting the Accusation/Petition to Revoke
25 Probation. A copy of Accusation/Petition to Revoke Probation No. 79/09-01 is attached as
26 Exhibit A and incorporated herein by reference.

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28 ///

1 and agrees that it may not withdraw its agreement or seek to rescind the stipulation prior to the
2 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
3 Decision and Order, the Stipulated Revocation and Disciplinary Order shall be of no force or
4 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
5 and the Director shall not be disqualified from further action by having considered this matter.

6 11. The parties understand and agree that facsimile copies of this Stipulated Revocation
7 of License and Order, including facsimile signatures thereto, shall have the same force and effect
8 as the originals.

9 12. This Stipulated Revocation of License and Order is intended by the parties to be an
10 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
11 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
12 negotiations, and commitments (written or oral). This Stipulated Revocation of License and
13 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
14 writing executed by an authorized representative of each of the parties.

15 13. In consideration of the foregoing admissions and stipulations, the parties agree that
16 the (Director) may, without further notice or formal proceeding, issue and enter the following
17 Order:

18 **ORDER**

19 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 189574
20 and Smog Check Station License No. RC 189574 issued to Respondent Chula Vista Service
21 Center; Samad Sam Attisha, Owner is revoked and accepted by the Director of Consumer
22 Affairs.

23 1. The revocation of Respondent's Automotive Repair Dealer Registration and Smog
24 Check Station License and the acceptance of the revoked licenses by the Bureau shall constitute
25 the imposition of discipline against Respondent. This stipulation constitutes a record of the
26 discipline and shall become a part of Respondent's license history with the Bureau.

27 2. Respondent shall lose all rights and privileges as an Automotive Repair Dealer in
28 California as of the effective date of the Director's Decision and Order.

Dec 30 10 12:27p Attisha Enterprises, Inc.

619-713-6146

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DEC-27-2010 MON 02:11 PM DEPT. OF JUSTICE/ATTY GEN

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1 3. Respondent shall cause to be delivered to the Bureau both its Automotive Repair
2 Dealer Registration and Smog Station License wall certificates and, if issued, pocket licenses on
3 or before the effective date of the Decision and Order.

4 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
5 California, the Bureau shall treat it as a new application for licensure. Respondent must comply
6 with all the laws, regulations and proceduros for licensure in effect at the time the application or
7 petition is filed, and all of the charges and allegations contained in Accusation/Petition to Revoke
8 Probatic n No. 79/09-01 shall be deemed to be true, correct and admitted by Respondent when the
9 Director determines whether to grant or deny the application or petition.

10 5. Respondent shall pay the Bureau its costs of investigation and enforcement in the
11 amount of \$1,507.25 prior to issuance of a new or reinstated license.

12 ACCEPTANCE

13 I have carefully read the above Stipulated Revocation of License and Order and have fully
14 discussed it with my attorney, Steven F. Lopez. I understand the stipulation and the effect it will
15 have on my Automotive Repair Dealer Registration and Smog Check Station License. I enter
16 into this Stipulated Revocation of License and Order voluntarily, knowingly, and intelligently,
17 and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

18
19 DATED: 12-30-2010 
20 SAMAD SAM ATTISHA, Owner
21 CHULA VISTA SERVICE CENTER; Respondent

22 APPROVAL

23 I have read and fully discussed with Samad Sam Attisha, Owner the terms and conditions
24 and other matters contained in this Stipulated Revocation of License and Order. I approve its
25 form and content.

26 DATED: 1/11/11 
27 STEVEN F. LOPEZ
28 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 1-12-11

Respectfully submitted,
EDMUND G. BROWN JR.
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



KAREN L. GORDON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation/Petition to Revoke Probation No. 79/09-01

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
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8 Attorneys for Complainant
9

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

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

15 CHULA VISTA SERVICE CENTER
16 SAMAD SAM ATTISHA, OWNER
899 Third Avenue
Chula Vista, CA 91911-1304

17 Automotive Repair Dealer Reg. No. ARD 189574
18 Smog Check Station License No. RC 189574

19 Respondent.

Case No. 79/09-01

**ACCUSATION AND PETITION
TO REVOKE PROBATION**

SMOG CHECK

20 Complainant alleges:

21 **PARTIES**

22 1. Sherry Mehl ("Complainant") brings this Accusation and Petition to
23 Revoke Probation solely in her official capacity as the Chief of the Bureau of Automotive Repair
24 ("Bureau"), Department of Consumer Affairs.

25 Automotive Repair Dealer Registration No. ARD 189574

26 2. On or about June 20, 1996, the Director of Consumer Affairs ("Director")
27 issued Automotive Repair Dealer Registration Number ARD 189574 (formerly AF 189574) to
28 Samad Sam Attisha ("Respondent"), owner of Chula Vista Shell. On or about September 2001,

1 Respondent's business name was changed to Chula Vista Service Center. On October 30, 2006.
2 Respondent's automotive repair dealer registration was revoked; however, the revocation was
3 stayed and Respondent was placed on probation for three (3) years on terms and conditions, as
4 set forth in paragraph 4 below. Respondent's automotive repair dealer registration was also
5 suspended for ten (10) days effective October 30, 2006. Respondent's automotive repair dealer
6 registration will expire on June 30, 2008, unless renewed.

7 **Smog Check Station License No. RC 189574**

8 3. On or about July 10, 1996, the Director issued Smog Check Station
9 License Number RC 189574 (formerly RF 189574) to Respondent. On October 30, 2006,
10 Respondent's smog check station license was revoked; however, the revocation was stayed and
11 Respondent was placed on probation for three (3) years on terms and conditions, as set forth in
12 paragraph 4 below. Respondent's smog check station license was also suspended for ten (10)
13 days effective October 30, 2006. Respondent's smog check station license will expire on June
14 30, 2008, unless renewed.

15 **PROBATIONARY TERMS**

16 4. On September 22, 2006, pursuant to the Stipulated Settlement and
17 Disciplinary Order, etc., adopted by the Director as the Decision in the disciplinary action titled
18 *In the Matter of the Accusation Against Chula Vista Service Center, et al.*, Case Number
19 79/05-58, the Director revoked Respondent's automotive repair dealer registration and smog
20 check station license effective October 30, 2006. The revocations were stayed and Respondent
21 was placed on probation for three (3) years on terms and conditions. Respondent's automotive
22 repair dealer registration and smog check station license were also suspended for ten (10) days
23 effective October 30, 2006.

24 5. Condition 5 of Respondent's probation states that Respondent shall
25 comply with all statutes, regulations, and rules governing automotive inspections, estimates, and
26 repairs.

27 6. Condition 11 of Respondent's probation states that should the Director
28 determine that Respondent has failed to comply with the terms and conditions of probation, the

1 Department may, after giving notice and opportunity to be heard, temporarily or permanently
2 invalidate the registration and suspend or revoke the license.

3 JURISDICTION

4 7. Business and Professions Code ("Bus. & Prof. Code") section 9884.7
5 provides that the Director may invalidate an automotive repair dealer registration.

6 8. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the
7 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a
8 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
9 registration temporarily or permanently.

10 9. Health and Safety Code ("Health & Saf. Code") section 44002 provides,
11 in pertinent part, that the Director has all the powers and authority granted under the Automotive
12 Repair Act for enforcing the Motor Vehicle Inspection Program.

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

17 STATUTORY PROVISIONS

18 11. Bus. & Prof. Code section 9884.7 states, in pertinent part:

19 (a) The director, where the automotive repair dealer cannot show there
20 was a bona fide error, may refuse to validate, or may invalidate temporarily or
21 permanently, the registration of an automotive repair dealer for any of the
22 following acts or omissions related to the conduct of the business of the
23 automotive repair dealer, which are done by the automotive repair dealer or any
24 automotive technician, employee, partner, officer, or member of the automotive
25 repair dealer.

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

(3) Failing or refusing to give to a customer a copy of any document requiring
his or her signature, as soon as the customer signs the document.

(4) Any other conduct which constitutes fraud.

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

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, 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.

12. Bus. & Prof. Code section 9884.8 states:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, such invoice shall clearly state that fact. One copy shall be given to the customer and one copy shall be retained by the automotive repair dealer.

13. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

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1 14. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board"
2 includes "bureau," "commission," "committee," "department," "division," "examining
3 committee," "program," and "agency."

4 15. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part,
5 that a "license" includes "registration" and "certificate."

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

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

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

11

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

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

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

18 COST RECOVERY

19 18. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board
20 may request the administrative law judge to direct a licentiate found to have committed a
21 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
22 investigation and enforcement of the case.

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1 ACCUSATION

2 UNDERCOVER OPERATION #1: 1989 FORD LTD CROWN VICTORIA

3 19. On March 21, 2007, an undercover operator with the Bureau, using the
4 fictitious name "Atsumi Akita" (hereinafter "operator"), took the Bureau's 1989 Ford LTD
5 Crown Victoria to Respondent's facility and requested a smog inspection. The vacuum hose to
6 the manifold absolute pressure (MAP) sensor on the Bureau-documented vehicle was damaged,
7 causing the vehicle to fail an emissions test as a "gross polluter"¹. The operator signed and
8 received a copy of Repair Order # 053928 in the amount of \$29.95 for the smog inspection. The
9 repair order included a \$10 charge described as "parts subtotal". The operator asked
10 Respondent's employee, "Chris", what the parts subtotal entailed. Chris told the operator that
11 the charge was for the smog certificate and transfer fee. After the smog inspection was
12 completed, Chris told the operator that the vehicle failed the inspection as a gross polluter and
13 that the vehicle had a vacuum leak. The operator authorized the facility to perform a diagnosis of
14 the vehicle.

15 20. At approximately 1320 hours that same day, the operator received a
16 telephone call from Chris. Chris told the operator that the vehicle needed new vacuum hoses,
17 that the spark plugs needed to be replaced because the vacuum leak was causing them to "foul
18 out", and that the vehicle needed a fuel injection cleaning service because of carbon buildup in
19 the engine. Chris stated that it would cost a total of \$412.03 for the repairs, not including the
20 diagnostic service, and that they would waive the \$89 fee for the diagnostic if the repairs were
21 performed at Chula Vista Service Center. Chris told the operator that he was going to perform
22 another smog test on the vehicle at no charge and that the smog inspection would only cost
23 \$19.95 since he could not issue a smog certificate. Chris explained that since the vehicle failed
24 as a gross polluter, the operator would have to go to a test only facility for the certification. The
25 operator authorized the repairs.

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1. Pursuant to Health & Saf. Code section 39032.5, "gross polluter" means a vehicle with excess
28 hydrocarbon, carbon monoxide, or oxides of nitrogen (NOX) emissions as established by the department in
consultation with the state board.

1 accepted trade standards for good and workmanlike repair without the consent of the owner or
2 the owner's duly authorized representative in the following material respects:

3 a. Respondent replaced the plastic vacuum line that supplies vacuum to the
4 fuel pressure regulator with a rubber hose, causing vacuum leakage. Further, the existing
5 vacuum line was in good, serviceable condition and was not in need of replacement.

6 b. Respondent modified the plastic vacuum lines that distribute vacuum to
7 the EGR valve, thermactor diverter valve, and control solenoids, causing vacuum leakage, as
8 follows: Respondent cut and removed approximately one half of the plastic vacuum lines, then
9 installed loose fitting rubber vacuum hosing onto the remaining portion of the existing lines and
10 connected them to the ERG valve, thermactor diverter valve, and control solenoids intake
11 manifold vacuum source connection point on the intake plenum. Further, the plastic vacuum
12 lines to the EGR valve, thermactor diverter valve, and control solenoids were in good,
13 serviceable condition and were not in need of repair or replacement.

14 c. Respondent replaced the spark plugs on the vehicle when, in fact, the
15 engine ignition system was functionally normally and the ignition system components, including
16 the spark plugs, were in good, serviceable condition and were not in need of replacement.

17 d. Respondent cleaned the fuel injectors and throttle body on the vehicle
18 when, in fact, those parts were in good, serviceable condition and were not in need of cleaning.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Violations of the Bus. & Prof. Code)**

21 27. Respondent's automotive repair dealer registration is subject to
22 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
23 Respondent failed to comply with provisions of that Code in the following material respects:

24 a. Section 9884.8: Respondent failed to state on Invoice # 053928 whether
25 the parts installed on the Bureau's 1989 Ford LTD Crown Victoria were
26 used, rebuilt, or reconditioned.

27 b. Section 9884.9, subdivision (a): Respondent listed an estimate price of
28 \$10 on Repair Order # 053928 described as "parts subtotal" without

1 specifying that the charge was for the smog certificate and transfer fee.
2 Further, Respondent exceeded the estimate price of \$412.03 for the repairs
3 on the Bureau's 1989 Ford LTD Crown Victoria without the operator's
4 oral or written consent.

5 **FIFTH CAUSE FOR DISCIPLINE**

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

7 28. Respondent's smog check station license is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
9 comply with section 44016 of that Code by failing to perform the repairs on the Bureau's 1989
10 Ford LTD Crown Victoria in accordance with established specifications and procedures, as set
11 forth in paragraph 26 above.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

15 29. Respondent's smog check station license is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
17 comply with the following sections of California Code of Regulations, title 16:

- 18 a. **Section 3340.41, subdivision (a)**: Respondent failed to provide the
19 operator with a copy of the vehicle inspection report pertaining to the
20 failed smog check inspection on the Bureau's 1989 Ford LTD Crown
21 Victoria.
- 22 b. **Section 3340.41, subdivision (d)**: Respondent failed to follow applicable
23 specifications and procedures when performing the repairs on the Bureau's
24 1989 Ford LTD Crown Victoria, as set forth in paragraph 26 above.

25 **SEVENTH CAUSE FOR DISCIPLINE**

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

27 30. Respondent's smog check station license is subject to disciplinary action
28 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed

1 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraph 25
2 above.

3 UNDERCOVER OPERATION #2: 1994 HONDA ACCORD

4 31. On September 20, 2007, an undercover operator with the Bureau, using the
5 fictitious name "Lezley Kott" (hereinafter "operator"), took the Bureau's 1994 Honda Accord
6 to Respondent's facility and requested a smog inspection. A defective fuel injector resistor block
7 assembly had been installed in the Bureau-documented vehicle, preventing the #2 cylinder fuel
8 injector from operating and causing the vehicle to fail an emissions test as a "gross polluter".
9 The operator told Respondent's employee, Chris, that the check engine light was on in the
10 vehicle. Chris stated that the vehicle was not going to pass the smog test and recommended a
11 diagnostic check for the light. Chris told the operator that the diagnostic check cost \$89 and that
12 he would not charge her for the diagnostic or the smog inspection if the repairs were performed
13 at Chula Vista Service Center. The operator signed and received a copy of Estimate # 100652
14 authorizing the diagnostic check.

15 32. Approximately an hour and 45 minutes later, Respondent's employee,
16 "Eddie", showed the operator a part (the defective fuel injector resistor block assembly). Eddie
17 stated that the part would need to be replaced before they could continue with the diagnosis and
18 that the dealer would not have the part until tomorrow. The operator signed a repair order,
19 authorizing the replacement of the part; the part price was listed as \$220. Eddie explained that
20 they obtained the part price from the dealership.

21 33. At approximately 1425 hours, the operator received a telephone call from
22 Eddie. Eddie told the operator that they found a used part and that it worked fine. Eddie also
23 stated that the vehicle needed a new catalytic converter and that some wires needed to be fixed
24 because "somebody didn't put them on right". Eddie told the operator that the repairs cost \$825.
25 The operator asked Eddie if these items were necessary for the vehicle to pass the smog test.
26 Eddie answered "yes".

27 34. On September 21, 2007, the operator returned to the facility, paid \$844.24
28 in cash for the repairs, and received copies of Invoice # 56437 and vehicle inspection reports

1 dated September 20, 2007, one for the pre-test inspection and the other for the official smog test
2 (the latter indicated that the vehicle passed the smog test, resulting in the issuance of electronic
3 smog Certificate of Compliance # VJ493816C).

4 35. On September 24, 2007, Bureau Representative Lebens inspected the
5 vehicle and observed that the PGM fuel injection harness had additional plastic insulating tape
6 placed on the existing insulating tape in several areas. Lebens removed the plastic insulating
7 tape that was wrapped around the fuel injector wiring located inside the harness holder. Lebens
8 found no evidence of damage or repairs to the PGM wiring harness. Lebens also found that
9 Respondent's facility had unnecessarily replaced the catalytic converter.

10 EIGHTH CAUSE FOR DISCIPLINE

11 (Untrue or Misleading Statements)

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

16 a. Respondent's employee, Eddie, represented to the operator that the
17 Bureau's 1994 Honda Accord needed a new catalytic converter and that this repair was needed so
18 that the vehicle would pass the smog inspection. In fact, the existing catalytic converter was new
19 and was not in need of replacement. Further, the only repair required to correct the emissions
20 problem on the vehicle was the replacement of the defective fuel injector resistor block assembly;
21 Respondent's facility had, in fact, performed this repair on the vehicle.

22 b. Respondent's employee, Eddie, falsely represented to the operator that
23 some wires on the Bureau's 1994 Honda Accord needed to be fixed because "somebody didn't
24 put them on right".

25 c. Respondent represented on Invoice # 56437 that the damaged injector
26 wiring loom on the Bureau's 1994 Honda Accord had been repaired. In fact, the existing PGM
27 fuel injection harness was in good, serviceable condition and was not in need of servicing or
28 repair. Further, that part had not been repaired on the vehicle, as set forth in paragraph 35 above.

1 NINTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 37. Respondent's automotive repair dealer registration is subject to
4 disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent
5 committed acts constituting fraud, as follows:

6 a. Respondent's employee, Eddie, made false or misleading representations
7 to the operator regarding the Bureau's 1994 Honda Accord, as set forth in subparagraphs 36 (a)
8 and (b) above, in order to induce the operator to purchase unnecessary repairs on the vehicle,
9 then sold the operator unnecessary repairs, including the replacement of the catalytic converter
10 and repair of the PGM fuel injection harness.

11 b. Respondent charged and obtained payment from the operator for repairing
12 the PGM fuel injection harness on the Bureau's 1994 Honda Accord when, in fact, that part was
13 not damaged or repaired on the vehicle.

14 TENTH CAUSE FOR DISCIPLINE

15 (Departure From Trade Standards)

16 38. Respondent's automotive repair dealer registration is subject to
17 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that as to
18 the Bureau's 1994 Honda Accord, Respondent willfully departed from or disregarded accepted
19 trade standards for good and workmanlike repair without the consent of the owner or the owner's
20 duly authorized representative in the following material respects:

21 a. Respondent replaced the existing catalytic converter on the vehicle when,
22 in fact, the catalytic converter was new and was not in need of replacement.

23 b. Respondent added plastic insulating tape over the existing plastic
24 insulating tape on the PGM fuel injection harness. In fact, the existing PGM fuel injection
25 harness was in good, serviceable condition and was not in need of servicing or repair.

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1 FOURTEENTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Regulations Pursuant
3 to the Motor Vehicle Inspection Program)

4 42. Respondent's smog check station license is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
6 comply with California Code of Regulations, title 16, section 3340.41, subdivision (d), as
7 follows: Respondent failed to follow applicable specifications and procedures when performing
8 the repairs on the Bureau's 1994 Honda Accord, as set forth in paragraph 38 above.

9 FIFTEENTH CAUSE FOR DISCIPLINE

10 (Dishonesty, Fraud or Deceit)

11 43. Respondent's smog check station license is subject to disciplinary action
12 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
13 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraph 37
14 above.

15 UNDERCOVER OPERATION #3: 1995 TOYOTA COROLLA

16 44. On October 31, 2007, an undercover operator with the Bureau, using the
17 fictitious name "Carol Marshall" (hereinafter "operator"), took the Bureau's 1995 Toyota Corolla
18 to Respondent's facility and requested a smog inspection. The intake air temperature (IAT)
19 sensor on the Bureau-documented vehicle had been disconnected, causing the malfunction
20 indicator light (check engine light) to illuminate in the vehicle and a code 24² to be set in the
21 engine control module ("ECM"). The operator signed and received a copy of Estimate # 101875,
22 authorizing the smog inspection for \$69. Respondent's employee, "Chris", told the operator that
23 it was "pass or don't pay". Later, Chris told the operator that the check engine light was on in the
24 vehicle and that they were not going to perform the smog check because the vehicle would
25 automatically fail. Chris offered to perform a diagnosis of the check engine light. The operator
26 signed and received a copy of Estimate # 101875 authorizing a diagnostic for \$89. Chris told the

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2. A code 24 indicates an opening or short in the IAT sensor circuit. The vehicle will not pass the functional portion (MIL light test) of a California ASM Smog Check with this condition present.

1 operator following the diagnostic check that the air sensor (IAT sensor) had an open circuit or
2 broken wire and would need to be replaced at a cost of \$381. The operator signed a work order
3 authorizing the repair, but did not receive a copy of the document.

4 45. Later that same day, the operator returned to the facility to retrieve the
5 vehicle, paid \$381 in cash for the repairs, and received copies of Invoice # 57001 and a vehicle
6 inspection report dated October 31, 2007. The vehicle inspection report indicated that the
7 vehicle passed the smog test, resulting in the issuance of electronic smog Certificate of
8 Compliance # VL306257.

9 46. On November 1, 2007, Bureau Representative Paul Stump ("Stump")
10 inspected the vehicle, using Invoice # 57001 for comparison. Stump found that the IAT sensor
11 had been reconnected, but the IAT code (code 24) was still present in the computer system of the
12 vehicle. Stump also found a labor operation on the invoice described as "re learn computer".
13 Stump was unable to locate a procedure for "relearning" the computer on the vehicle.

14 47. Information obtained from the Bureau's vehicle information database
15 indicated that Respondent's facility had performed a pre-test smog check inspection on the
16 vehicle. The operator was not given a copy of the vehicle inspection report for the pre-test
17 inspection.

18 SIXTEENTH CAUSE FOR DISCIPLINE

19 (Untrue or Misleading Statements)

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

24 a. Respondent represented on Invoice # 57001 that the PCM codes were
25 cleared from the computer system on the Bureau's 1995 Toyota Corolla. In fact, the IAT code
26 (code 24) was still present in the computer system of the vehicle.

27 b. Respondent falsely represented on Invoice # 57001 that a labor operation
28 described as "re learn computer" was performed on the Bureau's 1995 Toyota Corolla.

1 SEVENTEENTH CAUSE FOR DISCIPLINE

2 (Failure to Provide Copy of Work Order signed by Customer)

3 49. Respondent is subject to disciplinary action pursuant to Code section
4 9884.7, subdivision (a)(3), in that Respondent's employee, Chris, failed to give the operator a
5 copy of the work order pertaining to the replacement of the intake air temperature (IAT) sensor as
6 soon as the operator signed the document.

7 EIGHTEENTH CAUSE FOR DISCIPLINE

8 (Fraud)

9 50. Respondent's automotive repair dealer registration is subject to
10 disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent
11 committed acts constituting fraud, as follows:

12 a. Respondent charged and obtained payment from the operator for clearing
13 the PCM codes from the computer system on the Bureau's 1995 Toyota Corolla. In fact, the IAT
14 code (code 24) was still present in the computer system of the vehicle.

15 b. Respondent charged and obtained payment from the operator for
16 "relearning" the computer on the Bureau's 1995 Toyota Corolla. In fact, there is no procedure
17 for "relearning" the computer on the vehicle.

18 NINETEENTH CAUSE FOR DISCIPLINE

19 (Departure From Trade Standards)

20 51. Respondent's automotive repair dealer registration is subject to
21 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that as to
22 the Bureau's 1994 Honda Accord, Respondent willfully departed from or disregarded accepted
23 trade standards for good and workmanlike repair without the consent of the owner or the owner's
24 duly authorized representative in a material respect, as follows: Respondent failed to clear the
25 IAT code (code 24) from the computer system on the Bureau's 1995 Toyota Corolla.

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1 TWENTIETH CAUSE FOR DISCIPLINE

2 (Violations of the Bus. & Prof. Code)

3 52. Respondent's automotive repair dealer registration is subject to
4 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
5 Respondent failed to comply with section 9884.8 of that Code in a material respect, as follows:
6 Respondent failed to record on Invoice # 57001 that a pre-test smog check inspection was
7 performed on the Bureau's 1995 Toyota Corolla.

8 TWENTY-FIRST CAUSE FOR DISCIPLINE

9 (Violations of the Motor Vehicle Inspection Program)

10 53. Respondent's smog check station license is subject to disciplinary action
11 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
12 comply with section 44016 of that Code by failing to perform the repairs on the Bureau's 1995
13 Toyota Corolla in accordance with established specifications and procedures, as set forth in
14 paragraph 51 above.

15 TWENTY-SECOND CAUSE FOR DISCIPLINE

16 (Failure to Comply with Regulations Pursuant
17 to the Motor Vehicle Inspection Program)

18 54. Respondent's smog check station license is subject to disciplinary action
19 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
20 comply with the following sections of California Code of Regulations, title 16:

- 21 a. Section 3340.41, subdivision (a): Respondent failed to provide the
22 operator with a copy of the vehicle inspection report pertaining to the
23 pre-test smog check inspection on the Bureau's 1995 Toyota Corolla.
24 b. Section 3340.41, subdivision (d): Respondent failed to follow applicable
25 specifications and procedures when performing the repairs on the Bureau's
26 1995 Toyota Corolla, as set forth in paragraph 51 above.

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1 TWENTY-THIRD CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 55. Respondent's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
5 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraph 50
6 above.

7 PETITION TO REVOKE PROBATION

8 56. Complainant incorporates by reference as if fully set forth herein the
9 allegations contained in paragraphs 1 through 55 of the Accusation.

10 57. Grounds exist to revoke probation and reimpose the order of revocation of
11 Respondent's automotive repair dealer registration and smog check station license in that
12 Respondent has failed to comply with Condition 5 of his probation by failing to comply with all
13 statutes, regulations, and rules governing automotive inspections, estimates and repairs as set
14 forth above.

15 OTHER MATTERS

16 58. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
17 Director may refuse to validate, or invalidate temporarily or permanently, the registrations for all
18 places of business operated in this state by Respondent Samad Sam Attisha upon a finding that
19 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
20 regulations pertaining to an automotive repair dealer.

21 59. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station
22 License Number RC 189574, issued to Respondent Samad Sam Attisha, owner of Chula Vista
23 Service Center, is revoked or suspended, any additional license issued under this chapter in the
24 name of said licensee may be likewise revoked or suspended by the director.

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