

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

In the Matter of the Accusation Against:

FONTANA SMOG AND REPAIR INC.;
RAFAT FARHANG -
PRESIDENT/SECRETARY/TREASURER;
ROBERTO CASAS - RESPONSIBLE
MANAGING EMPLOYEE, DBA
FONTANA SMOG AND REPAIR INC.
16510 Merrill Avenue Unit B
Fontana, CA 92335

Case No. 77/15-54

OAH No. 2015070369

Automotive Repair Dealer Registration No.
ARD 229061
Smog Check Station License No. RC
229061
Lamp Station License No. LS 229061
Brake Station License No. BS 229061

and

ROBERTO CASAS
1603 East Deodar Street
Ontario, CA 91764
Mailing Address:
16510 Merrill Ave.
Fontana, CA 92335

Smog Check Inspector License No. EO 144528
Smog Check Repair Technician License No. EI
144528 (formerly Advanced Emission
Specialist Technician License No. EA 144528)
Lamp Adjuster License No. LA 144528
Brake Adjuster License No. BA 144528

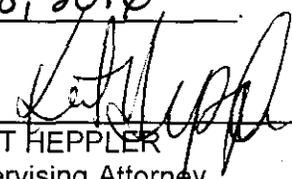
Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent Fontana Smog and Repair Inc., Rafat Farhang, Roberto Casas - Responsible Managing Employee dba Fontana Smog and Repair Inc., Automotive Repair Dealer Registration No. ARD 229061, Smog Check Station License No. RC 229061, Lamp Station License No. LS 229061, and Brake Station License No. BS 229061.

This Decision shall become effective July 28, 2016

DATED: 6/29/2016


KURT HEPPLER
Supervising Attorney
Division of Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **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. 77/15-54

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14 **RAFAT FARHANG –**
15 **PRESIDENT/SECRETARY/TREASURER;**
16 **ROBERTO CASAS – RESPONSIBLE**
17 **MANAGING EMPLOYEE, DBA**
18 **FONTANA SMOG AND REPAIR INC.**
16510 Merrill Avenue Unit B
Fontana, CA 92335

OAH No. 2015070369

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT FONTANA SMOG AND
REPAIR INC.; RAFAT FARHANG –
PRESIDENT/SECRETARY/TREASURER;
ROBERTO CASAS – RESPONSIBLE
MANAGING EMPLOYEE, DBA
FONTANA SMOG AND REPAIR INC.
ONLY

19 Automotive Repair Dealer Registration No.
ARD 229061
20 Smog Check Station License No. RC 229061
21 Lamp Station License No. LS 229061
22 Brake Station License No. BS 229061

23 and

24 **ROBERTO CASAS**
1603 East Deodar Street
25 Ontario, CA 91764
26 Mailing Address:
16510 Merrill Ave.
27 Fontana, CA 92335

28 Smog Check Inspector License No. EO 144528
Smog Check Repair Technician License No. EI
144528
(formerly Advanced Emission Specialist
Technician License No. EA 144528)
Lamp Adjuster License No. LA 144528
Brake Adjuster License No. BA 144528

Respondents.

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

7 2. Respondent Fontana Smog and Repair Inc.; Rafatt Farhang,
8 President/Secretary/Treasurer; Roberto Casas, Responsible Managing Employee (Respondent
9 Fontana Smog) is representing itself in this proceeding.

10 3. On or about August 21, 2003, the Bureau of Automotive Repair issued Automotive
11 Repair Dealer Registration Number ARD 229061 (registration) to Respondent Fontana Smog.
12 The registration was in full force and effect at all times relevant to the charges brought herein and
13 will expire on August 31, 2016, unless renewed.

14 4. On or about December 2, 2003, the Bureau of Automotive Repair issued Smog Check
15 Station License Number RC 229061 (smog check station license) to Respondent Fontana Smog.
16 The smog check station license was in full force and effect at all times relevant to the charges
17 brought herein and will expire on August 31, 2016, unless renewed.

18 5. On or about January 7, 2008, the Bureau of Automotive Repair issued Lamp Station
19 License Number LS 229061 (lamp station license) to Respondent Fontana Smog. The lamp
20 station license was in full force and effect at all times relevant to the charges brought herein and
21 will expire on August 31, 2016, unless renewed.

22 6. On or about January 7, 2008, the Bureau of Automotive Repair issued Brake Station
23 License Number BS 229061 to Respondent Fontana Smog. The brake station license was in full
24 force and effect at all times relevant to the charges brought herein and will expire on August 31,
25 2016, unless renewed.

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1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 18. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 229061,
8 Smog Check Station License No. RC 229061, Lamp Station License No. LS 229061, and Brake
9 Station License No. BS 229061 issued to Respondent Fontana Smog are revoked. However, the
10 revocations are all stayed and Respondent Fontana Smog is placed on probation for three (3)
11 years on the following terms and conditions.

12 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 229061,
13 Smog Check Station License No. RC 229061, Lamp Station License No. LS 229061, and Brake
14 Station License No. BS 229061 issued to Respondent Fontana Smog are all suspended for five (5)
15 consecutive days, with such suspensions commencing on the effective date of the Decision and
16 Order herein.

17 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
18 automotive inspections, estimates and repairs.

19 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
20 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
21 conspicuously displayed in a location open to and frequented by customers and shall remain
22 posted during the entire period of actual suspension.

23 4. **Reporting.** Respondent Fontana Smog or Respondent Fontana Smog's authorized
24 representative must report in person or in writing as prescribed by the Bureau of Automotive
25 Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods
26 used and success achieved in maintaining compliance with the terms and conditions of probation.

27 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
28 any financial interest which any partners, officers, or owners of the Respondent Fontana Smog

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Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 1-29-2016 Rafat Farhan
FONTANA SMOG AND REPAIR INC.; RAFATT FARHANG, PRES./SECRETARY/TREASURER
Respondent

ENDORSEMENT

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

Dated: 1/29/16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorney for Complainant

LA2014512139
Stipulation.rtf

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7 *Attorneys for Complainant*

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

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11 In the Matter of the Accusation Against:

Case No. 77/15-54

12 **FONTANA SMOG AND REPAIR INC.;**
13 **RAFAT FARHANG -**
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14 **ROBERTO CASAS - RESPONSIBLE**
MANAGING EMPLOYEE, DBA
15 **FONTANA SMOG AND REPAIR INC.**
16 16510 Merrill Avenue Unit B
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ACCUSATION

17 Automotive Repair Dealer Registration No.
ARD 229061
18 Smog Check Station License No. RC 229061
Lamp Station License No. LS 229061
19 Brake Station License No. BS 229061

and

20 **ROBERTO CASAS**
21 1603 East Deodar Street
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24 Smog Check Inspector License No. EO 144528
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(formerly Advanced Emission Specialist
26 Technician License No. EA 144528)
Lamp Adjuster License No. LA 144528
27 Brake Adjuster License No. BA 144528

28 Respondents.

1
In the Matter of the Accusation Against:
Fontana Smog, et. al

ACCUSATION

1 Complainant alleges:

2 PARTIES

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

5 2. On or about August 21, 2003, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 229061 (registration) to Fontana Smog And Repair
7 Inc.; Rafat Farhang – President/Secretary/President; Roberto Casas – Responsible Managing
8 Employee (Respondent Fontana Smog). The registration was in full force and effect at all times
9 relevant to the charges brought herein and will expire on August 31, 2015, unless renewed.

10 3. On or about December 2, 2003, the Bureau of Automotive Repair issued Smog Check
11 Station License Number RC 229061 (smog check station license) to Respondent Fontana Smog.
12 The smog check station license was in full force and effect at all times relevant to the charges
13 brought herein and will expire on August 31, 2015, unless renewed.

14 4. On or about January 7, 2008, the Bureau of Automotive Repair issued Lamp Station
15 License Number LS 229061 (lamp station license) to Respondent Fontana Smog. The lamp
16 station license was in full force and effect at all times relevant to the charges brought herein and
17 will expire on August 31, 2015, unless renewed.

18 5. On or about January 7, 2008, the Bureau of Automotive Repair issued Brake Station
19 License Number BS 229061 to Respondent Fontana Smog. The brake station license was in full
20 force and effect at all times relevant to the charges brought herein and will expire on August 31,
21 2015, unless renewed.

22 **Roberto Casas**

23 6. In 2001, Advanced Emission Specialist (EA) Technician License No. 144528 was
24 issued to Respondent Casas. The Advanced Emission Specialist Technician License, which was
25 due to expire on February 28, 2014, was cancelled on November 21, 2013. Pursuant to California
26 Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant
27 to Respondent Casas' election, as Smog Check Inspector License Number EO 144528 and Smog
28 Check Repair Technician License Number EI 144528 (effective November 21, 2013) (technician

1 licenses). Respondent Casas' technician licenses will expire on February 29, 2016, unless
2 renewed,¹

3 7. On or about July 21, 2008, the Bureau of Automotive Repair issued Lamp Adjuster
4 License Number LA 144528 (lamp adjuster license) to Respondent Casas. The lamp adjuster
5 license was in full force and effect at all times relevant to the charges brought herein and will
6 expire on February 29, 2016, unless renewed.

7 8. On or about July 18, 2008, the Bureau of Automotive Repair issued Brake Adjuster
8 License Number BA 144528 (brake adjuster license) to Respondent Casas. The brake adjuster
9 license was in full force and effect at all times relevant to the charges brought herein and will
10 expire on February 29, 2016, unless renewed.

11 JURISDICTION

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

14 STATUTORY PROVISIONS

15 10. Business and Professions Code section 9884.7 states, in pertinent part:

16 (a) The director, where the automotive repair dealer cannot show there
17 was a bona fide error, may deny, suspend, revoke or place on probation the
18 registration of an automotive repair dealer for any of the following acts or omissions
19 related to the conduct of the business of the automotive repair dealer, which are done
20 by the automotive repair dealer or any automotive technician, employee, partner,
21 officer, or member of the automotive repair dealer.

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

25

26 (4) Any other conduct that constitutes fraud.

27

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

¹ Effective August 1, 2012, California Code of Regulations, title 16, section 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 and/or Smog Check Repair Technician (EI) license.

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(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.

11. Business and Professions 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 . . .

12. Business and Professions Code section 9888.3 states:

No person shall operate an "official" lamp or brake adjusting station unless a license therefor has been issued by the director. No person shall issue, or cause or permit to be issued, any certificate purporting to be an official lamp adjustment certificate unless he or she is a licensed lamp adjuster or an official brake adjustment certificate unless he or she is a licensed brake adjuster.

13. Business and Professions Code section 9889.3 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article [Article 7 (commencing with section 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

(a) Violates any section of the Business and Professions Code which relates to his or her licensed activities.

....

(c) Violates any of the regulations promulgated by the director pursuant to this chapter.

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

....

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

3 14. Business and Professions Code section 9889.16 states:

4 Whenever a licensed adjuster in a licensed station upon an inspection or
5 after an adjustment, made in conformity with the instructions of the bureau,
6 determines that the lamps or the brakes upon any vehicle conform with the
7 requirements of the Vehicle Code, he shall, when requested by the owner or driver of
8 the vehicle, issue a certificate of adjustment on a form prescribed by the director,
9 which certificate shall contain the date of issuance, the make and registration number
10 of the vehicle, the name of the owner of the vehicle, and the official license of the
11 station.

12 15. Business and Professions Code section 9889.22 states:

13 The willful making of any false statement or entry with regard to a
14 material matter in any oath, affidavit, certificate of compliance or noncompliance, or
15 application form which is required by this chapter [the Automotive Repair Act] or
16 Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health
17 and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

18 16. Business and Professions Code section 9889.9 states that "[w]hen any license has
19 been revoked or suspended following a hearing under the provisions of this article [Article 7
20 (commencing with section 9889.1) of the Automotive Repair Act], any additional license issued
21 under Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or
22 suspended by the director."

23 17. Business and Professions Code section 22, subdivision (a), states:

24 "Board" as used in any provision of this Code, refers to the board in
25 which the administration of the provision is vested, and unless otherwise expressly
26 provided, shall include "bureau," "commission," "committee," "department,"
27 "division," "examining committee," "program," and "agency."

28 18. Business and Professions Code section 477, subdivision (b), states, in pertinent part,
that a "license" includes "registration" and "certificate."

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

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection
Program (Health and Safety 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 . . .

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

COST RECOVERY

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

Vehicle Documentation For Undercover Operation No. 1:

22. A representative from one of the Bureau's Forensic Documentation Labs (lab representative) documented the condition of the Bureau's 2000 Toyota for a California "Certificate of Adjustment-Lamp Adjustment", and a "Certificate of Adjustment-Brake Adjustment" (lamp and brake certificates). The right rear brake drum and left rear brake drum of the 2000 Toyota were deliberately machined to exceed the manufacturer's discard diameter specifications. The passenger headlamp was intentionally misadjusted and the license plate lamps were purposely made to be nonfunctional. This documentation was performed at a Bureau's Forensic Documentation Lab (lab), at which the vehicle subsequently remained secured.

Undercover Operation No. 1:

23. Thereafter, on January 9, 2014, in the city of Riverside, California, a Bureau representative received custody of the 2000 Toyota at the lab and secured the vehicle. On February 3, 2014 at a confidential location in Riverside, a Bureau representative released custody of the 2000 Toyota to a Bureau undercover operator. The undercover operator was then instructed to follow the Bureau representative in the 2000 Toyota and drive to a staging location in the city of Fontana, California, where the Bureau representative instructed the undercover

1 operator to drive the 2000 Toyota to Respondent Fontana Smog's facility, located at 16510
2 Merrill Avenue, Unit B, in Fontana and request a Brake and Lamp inspection on the vehicle. The
3 undercover operator did as instructed, thereafter returned to the staging location, and gave the
4 Bureau representative the three documents she had just received from Respondent Fontana Smog:
5 Brake Certificate Number BC [REDACTED], Lamp Certificate Number LC [REDACTED], and a yellow
6 copy of Invoice Number [REDACTED]. The undercover operator and the Bureau representative then both
7 initialed and dated all three documents. The Bureau representative then showed the undercover
8 operator a photograph of Respondent Casas, whom the undercover operator identified as the
9 person who had just performed the inspections at Respondent Fontana Smog's facility.

10 24. The undercover operator recalled the following occurred at Respondent Fontana
11 Smog's facility that day: After arriving at Respondent Fontana Smog, she entered the facility's
12 office and spoke with Respondent Casas about paying for a brake and lamp inspection.
13 Respondent Casas gave the undercover operator an oral estimate of \$100 for both inspections
14 (which was the amount the undercover operator ultimately paid in cash to Respondent Casas for
15 these services), but no written estimate was ever provided to her (the undercover operator) by
16 Respondent Casas or by anyone else at Respondent Fontana Smog.

17 25. The Bureau lab representative thereafter inspected the 2000 Toyota after the
18 undercover run was conducted at Respondent Fontana Smog's facility and found the following:
19 The tamper indicators on the headlamp adjusting screws were broken; the adjustment on the
20 driver's side headlamp aim remained within specifications; the adjustment on the passenger side
21 headlamp aim was not within specifications; the vehicle's external lighting system was
22 completely operational, including the license plate lamps. The Bureau representative further
23 found that the tamper indicators on all four wheels were broken, and that both of the rear
24 oversized brake drums he had previously documented had remained in place. As a result of this
25 re-inspection, the Bureau lab representative concluded that Respondent Fontana Smog
26 fraudulently issued Brake and Lamp Certificates of Adjustment on the Bureau's 2000 Toyota, as
27 the brake and lamp systems on the subject vehicle would have failed properly performed
28 inspections.

1 FIRST CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

3 26. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
4 Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or
5 authorized statements which it knew or in the exercise of reasonable care should have known to
6 be untrue or misleading, as follows:

7 a. Respondent Fontana Smog certified under penalty of perjury on Brake Certificate
8 Number BC [REDACTED] that the applicable inspection was performed on the brake system on the
9 Bureau's 2000 Toyota. In fact, Respondent Fontana Smog's technician, Respondent Casas, failed
10 to inspect the brakes on the vehicle.

11 b. Respondent Fontana Smog certified under penalty of perjury on Brake Certificate
12 Number BC [REDACTED] that the brake rotors on the Bureau's 2000 Toyota were in a satisfactory
13 condition. In fact, the right rear brake drum and left rear brake drum of the 2000 Toyota were
14 deliberately machined to exceed the manufacturer's discard diameter specifications and
15 accordingly, the 2000 Toyota should not have passed the brake inspection.

16 c. Respondent Fontana Smog certified under penalty of perjury on Lamp Certificate
17 Number LC [REDACTED] that the applicable adjustment had been performed on the lamp system on
18 the Bureau's 2000 Toyota. In fact, the adjustment on the passenger side headlamp aim was not
19 within specifications and was out of adjustment at the time the Bureau inspected the vehicle
20 following the undercover operation and accordingly, the 2000 Toyota should not have passed the
21 lamp inspection.

22 SECOND CAUSE FOR DISCIPLINE

23 (Fraud)

24 27. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
25 Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed
26 an act that constitutes fraud, as follows: Respondent obtained payment from the operator for
27 performing the applicable inspections, adjustments, or repairs of the brake and lamp systems on
28 the Bureau's 2000 Toyota as specified by the Bureau and in accordance with the Vehicle Code.

1 In fact, Respondent failed to perform the necessary inspections, adjustments, and repairs in
2 compliance with Bureau Regulations or the Vehicle Code as set forth in paragraphs 22-26 above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Business and Professions Code)**

5 28. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
6 Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent failed to
7 comply with provisions of that Code in the following material respects:

8 a. Section 9884.9, subdivision (a): Respondent Fontana Smog's employees failed to
9 provide the operator with a written estimate before performing the brake and lamp inspections on
10 the Bureau's 2000 Toyota.

11 b. Section 9889.16: Respondent Fontana Smog issued Brake Certificate Number BC
12 [REDACTED] and Lamp Certificate Number LC [REDACTED] as to the Bureau's 2000 Toyota when the
13 vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

14 c. Section 9889.22: Respondent Fontana Smog willfully made false statements or
15 entries on Brake Certificate Number BC [REDACTED] and Lamp Certificate Number LC [REDACTED], as
16 set forth in paragraphs 22-26 above.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violations of Regulations)**

19 29. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
20 Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent failed to
21 comply with provisions of California Code of Regulations, title 16, in the following material
22 respects:

23 a. Section 3305, subdivision (a): Respondent Fontana Smog failed to perform the
24 inspection of the brake system and inspection and adjustment of the lamp system on the Bureau's
25 2000 Toyota in accordance with the specifications, instructions, and directives issued by the
26 Bureau and the vehicle manufacturer.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Business and Professions Code)**

3 33. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that he
5 violated the provisions of Business and Professions Code sections 9888.3, 9889.16, and 9889.22
6 relating to his licensed activities, as set forth in paragraphs 22-26 above.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Violations of Regulations)**

9 34. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary
10 action pursuant to Business and Professions Code section 9889.3, subdivision (c), in that he failed
11 to comply with the provisions of California Code of Regulations, title 16, sections 3305,
12 subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraphs
13 22-26 above.

14 **TENTH CAUSE FOR DISCIPLINE**

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

16 35. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary
17 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
18 Casas committed a dishonest, fraudulent, or deceitful act whereby another is injured, as set forth
19 in paragraphs 22-26 above.

20 **Vehicle Documentation For Undercover Operatlon No. 2:**

21 36. A representative from one of the Bureau's Forensic Documentation Labs (lab
22 representative) documented the condition of the Bureau's 2002 Chevrolet for a California
23 "Certificate of Adjustment-Lamp Adjustment", and a "Certificate of Adjustment-Brake
24 Adjustment" (lamp and brake certificates). The right front brake rotor was deliberately machined
25 to below minimum manufacturer's rotor discard dimensions and in need of replacement. The front
26 left headlamp was intentionally misadjusted and the license plate lamp was purposely made to be
27 nonfunctional. This documentation was performed at one of the Bureau's Forensic
28 Documentation Labs, at which the vehicle subsequently remained secured.

1 **Undercover Operation No. 2:**

2 37. On March 26, 2014, at a confidential location in Riverside, a Bureau representative
3 received custody of the 2002 Chevrolet from the Bureau lab representative and secured the
4 vehicle. On March 26, 2014, the Bureau representative met a Bureau undercover operator at a
5 confidential location in Riverside, California and released custody of the 2002 Chevrolet to the
6 undercover operator. The undercover operator then followed the Bureau representative to a
7 staging location in the city of Fontana. The undercover operator was instructed to drive to
8 Respondent's Fontana Smog's facility on Merrill Avenue in Fontana and request a Brake and
9 Lamp inspection on the vehicle. After first having proceeded to Respondent Fontana Smog's
10 facility and finding it to be closed at that time, the undercover operator drove the 2002 Chevrolet
11 back to Respondent Fontana Smog's facility later that same day and ultimately was able to
12 request and pay for Brake and Lamp inspections on the vehicle.

13 38. The undercover operator spoke with an employee of Respondent Sinog who was later
14 confirmed to be Respondent Casas. The undercover operator informed Respondent Casas that she
15 needed brake and lamp inspections. Respondent Casas did not provide the undercover operator
16 with a specific price for the brake and lamp inspections; though he did tell her she would be given
17 a good price. Respondent Casas then asked the undercover operator to complete and sign a blank
18 estimate prior to the inspection, and was not immediately given a copy of the document after she
19 signed it. Thereafter, the undercover operator remained in a waiting room while the inspections
20 were performed. During such time, Respondent Casas approached the undercover operator in the
21 waiting area and informed her that the bulb above the license plate was burned out and that he
22 would replace it for no charge. The undercover operator orally agreed to have the license plate
23 bulb replaced. After the work was completed, Respondent Casas orally informed her that the cost
24 of the inspections was \$80. The undercover operator then paid Respondent Casas \$80 in cash and
25 was given Brake Certificate Number BC [REDACTED], Lamp Certificate Number LC [REDACTED], and a
26 yellow copy of Invoice Number [REDACTED].

27 39. Thereafter, the undercover operator returned to the staging location and met with the
28 Bureau representative again. The undercover operator was in possession of Brake Certificate

1 Number BC [REDACTED], Lamp Certificate Number LC [REDACTED], and a yellow copy of Invoice
2 Number [REDACTED], all of which she (the undercover operator) had been provided by Respondent
3 Fontana Smog after having paid for the requested services. The undercover operator and Bureau
4 representative then both initialed and dated these three documents. The Bureau lab representative
5 thereafter inspected the 2002 Chevrolet after the undercover run was conducted at Respondent
6 Fontana Smog's facility and found the following: The tamper indicators on the left headlamp
7 adjusting screw were broken. The passenger side headlamp aim was adjusted, but was not within
8 specifications. The license plate lamp defect had been corrected. The wheel tamper indicators on
9 all four wheels were broken. The undersized right front brake rotor that he had previously
10 documented had remained in place. As a result of this re-inspection, the Bureau lab
11 representative concluded that Respondent Fontana Smog fraudulently issued Brake and Lamp
12 Certificates of Adjustment on the Bureau's 2002 Chevrolet, as the brake and lamp systems on the
13 subject vehicle would have failed properly performed inspections.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 (Untrue or Misleading Statements)

16 40. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
17 Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or
18 authorized statements which it know or in the exercise of reasonable care should have known to
19 be untrue or misleading, as follows:

20 a. Respondent Fontana Smog certified under penalty of perjury on Brake Certificate
21 Number BC [REDACTED] that the applicable inspection was performed on the brake system on the
22 Bureau's 2002 Chevrolet. In fact, Respondent Fontana Smog's technician, Respondent Casas,
23 failed to inspect the brakes on the vehicle.

24 b. Respondent Fontana Smog certified under penalty of perjury on Brake Certificate
25 Number BC [REDACTED] that the front brake rotors on the Bureau's 2002 Chevrolet were in a
26 satisfactory condition. In fact, the right front brake rotor was deliberately machined to below
27 minimum manufacturer's rotor discard dimensions and in need of replacement and accordingly,
28 the 2002 Chevrolet should not have passed the brake inspection.

1 c. Respondent Fontana Smog certified under penalty of perjury on Lamp Certificate
2 Number LC [REDACTED] that the applicable adjustment had been performed on the lamp system on
3 the Bureau's 2002 Chevrolet. In fact, the front left headlamp was still misadjusted at the time the
4 Bureau inspected the vehicle following the undercover operation and accordingly, the 2002
5 Chevrolet should not have passed the lamp inspection.

6 **TWELFTH CAUSE FOR DISCIPLINE**

7 (Fraud)

8 41. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
9 Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed
10 an act that constitutes fraud, as follows: Respondent obtained payment from the operator for
11 performing the applicable inspections, adjustments, or repairs of the brake and lamp systems on
12 the Bureau's 2002 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code.
13 In fact, Respondent failed to perform the necessary inspections, adjustments, and repairs in
14 compliance with Bureau Regulations or the Vehicle Code as set forth in paragraphs 36-40 above.

15 **THIRTEENTH CAUSE FOR DISCIPLINE**

16 (Failure to Comply with the Business and Professions Code)

17 42. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to
18 Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent failed to
19 comply with provisions of that Code in the following material respects:

20 a. Section 9884.9, subdivision (a): Respondent Fontana Smog's employees failed to
21 provide the operator with a written estimate before performing the brake and lamp inspections on
22 the Bureau's 2002 Chevrolet.

23 b. Section 9889.16: Respondent Fontana Smog issued Brake Certificate Number BC
24 [REDACTED] and Lamp Certificate Number LC [REDACTED] as to the Bureau's 2002 Chevrolet when the
25 vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

26 c. Section 9889.22: Respondent Fontana Smog willfully made false statements or
27 entries on Brake Certificate Number BC [REDACTED] and Lamp Certificate Number LC [REDACTED], as
28 set forth in paragraphs 36-40 above.

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FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

43. Respondent Fontana Smog's registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. Section 3305, subdivision (a): Respondent Fontana Smog failed to perform the inspection of the brake system and inspection and adjustment of the lamp system on the Bureau's 2002 Chevrolet in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

b. Section 3316, subdivision (d)(2): Respondent issued Lamp Certificate Number LC [REDACTED] as to the Bureau's 2002 Chevrolet when all of the lamps, lighting equipment, and/or related electrical systems on the vehicle were not in compliance with Bureau regulations, as set forth in paragraphs 36-40 above.

c. Section 3321, subdivision (c)(2): Respondent issued Brake Certificate Number BC [REDACTED] to the Bureau's 2002 Chevrolet when the brake system on the vehicle had not been tested or inspected, as set forth in paragraphs 36-40 above.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Business and Professions Code)

44. Respondent Fontana Smog's brake and lamp station licenses are subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that Respondent violated the provisions of Business and Professions Code sections 9884.9, subdivision (a), 9888.3, 9889.16, and 9889.22 relating to Respondent's licensed activities, as set forth in paragraphs 36-40 above.

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SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

45. Respondent Fontana Smog's brake and lamp station licenses are subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (c), in that Respondent failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraphs 36-40 above.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

46. Respondent Fontana Smog's brake and lamp station licenses are subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Respondent committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 36-40 above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Business and Professions Code)

47. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that he violated the provisions of Business and Professions Code sections 9888.3, 9889.16, and 9889.22 relating to his licensed activities, as set forth in paragraphs 36-40 above.

NINETEENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

48. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (c), in that he failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraphs 36-40 above.

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TWENTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

49. Respondent Casas's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Casas committed a dishonest, fraudulent, or deceitful act whereby another is injured, as set forth in paragraphs 36-40 above.

OTHER MATTERS

50. Pursuant to Code section 9884.7, subdivision (c), the Bureau may refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of business operated in this state by Rafat Farhang upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

51. Pursuant to Code section 9889.9, if Lamp Station License Number LS 229061 issued to Rafat Farhang, doing business as Fontana Smog and Repair Inc., 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.

52. Pursuant to Code section 9889.9, if Brake Station License Number BS 229061 issued to Rafat Farhang, doing business as Fontana Smog and Repair Inc., 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.

53. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC 229061 issued to Rafat Farhang, doing business as Fontana Smog and Repair Inc., 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.

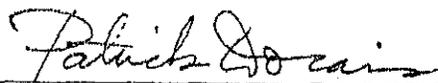
54. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 144528 issued to Roberto Casas is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

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

DATED: May 7, 2015



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

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