

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
6 Facsimile: (213) 897-2804
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. 79/16-64

13 **MAGY ADEL NSIM dba MN TEST ONLY**
1761 N. Paramount Blvd.
14 Montebello, CA 90640

ACCUSATION
Smog Check

15 Automotive Repair Dealer Registration No.
ARD 269737
16 Smog Check Test and Repair Station License No.
TC 269737
17

18 **ATEF SAILB ABDELMALAK**
7241 Vila Rio Nido
19 Downey, CA 90241

20 Smog Check Inspector (EO) License No. 633890
Smog Check Repair Technician (EI) License No.
21 633890 (*formerly Advanced Emission Specialist
Technician EA 633890*)

22 **ALEX'S AUTO REPAIR & ELECTRIC, INC.;**
23 **ATEF SAILB ABDELMALAK, PRESIDENT,**
SECRETARY, TREASURER
1761 N. Paramount Blvd.
24 Montebello, CA 90640

25 Automotive Repair Dealer Registration No.
ARD 249275
26 Smog Check Test and Repair Station License No.
RC 249275
27 Lamp Station License No. LS 249737
28 Brake Station License No. BS 249737

1 **K & M AUTO SERVICE GROUP, INC. dba**
2 **ALEX'S AUTO REPAIR & ELECTRIC; ATEF**
3 **SAILB ABDELMALAK, PRESIDENT,**
4 **SECRETARY, TREASURER**

5 3360 Atlantic Ave.
6 Long Beach, CA 90807

7 Automotive Repair Dealer Registration No.
8 ARD 241350
9 Smog Check Test and Repair Station License No.
10 RC 241350
11 Lamp Station License No. LS 241350
12 Brake Station License No. BS 241350

13 **and**

14 **RAFIK ADEL G. YOUSSEF ABDEL MESIH**
15 855 S. Citrus Ave. #113
16 Azusa, CA 91702

17 Smog Check Inspector (EO) License No. 632432
18 Smog Check Repair Technician (EI) License No.
19 632432 (*formerly Advanced Emission Specialist*
20 *Technician EA 632432*)

21 Respondents.

22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about July 26, 2012, the Bureau of Automotive Repair issued Automotive
27 Repair Dealer Registration Number ARD 269737 to Magy Adel Nsim, dba MN Test Only. The
28 Automotive Repair Dealer Registration expired on July 31, 2015, and has not been renewed.

1 3. On or about August 11, 2012, the Bureau of Automotive Repair issued Smog Check,
2 Test Only, Station License Number TC 269737 to Magy Adel Nsim, dba MN Test Only. The
3 Smog Check, Test Only, Station License expired on July 31, 2015, and has not been renewed.

4 4. On December 15, 2011, the Bureau of Automotive Repair issued Advanced Emission
5 Specialist Technician License EA 633890 to Atef Salib Abdelmalak. Pursuant to California Code

1 of Regulations, title 16, section 3340.28, subdivision (e), upon Respondent's election, said license
2 was renewed as Smog Check Inspector License EO 633890 and Smog Check Repair Technician
3 License No. EI 633890, effective November 20, 2013. The licenses were in full force and effect
4 at all times relevant to the charges brought herein and will expire on February 28, 2018, unless
5 renewed.

6 5. Respondent Atef Salib Abdelmalak is also the president and owner of Alex's Auto
7 Repair & Electric, Inc., which holds the following Bureau-issued licenses: Automotive Repair
8 Dealer Registration Number ARD 249275; Smog Check Station License Number RC 249275;
9 Lamp Station License Number LS 249275; and Brake Station License Number BS 249275. The
10 Smog Check Station License was cancelled on October 13, 2011. All other licenses were in full
11 force and effect at all times relevant to the charges brought herein and will expire on February 29,
12 2016, unless renewed.

13 6. Respondent Atef Salib Abdelmalak is also the president and owner of K & M Auto
14 Service Group, Inc., dba Alex's Auto Repair & Electric, which holds the following Bureau-issued
15 licenses: Automotive Repair Dealer Registration Number ARD 241350; Smog Check Station
16 License Number RC 241350; Lamp Station License Number LS 241350; and Brake Station
17 License Number BS 241350. The licenses were in full force and effect at all times relevant to the
18 charges brought herein and will expire on August 31, 2016, unless renewed.

19 7. On December 15, 2011, the Bureau of Automotive Repair issued Advanced
20 Emission Specialist Technician License EA 632432 to Rafik Adel G. Youssef Abdel Mesih.
21 Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), upon
22 Respondent's election, said license was renewed as Smog Check Inspector License EO 632432
23 and Smog Check Repair Technician License No. EI 632432, effective November 13, 2012. The
24 licenses were in full force and effect at all times relevant to the charges brought herein and will
25 expire on December 31, 2016, unless renewed.

26 8. On or about September 21, 2012, the Bureau of Automotive Repair issued Brake
27 Adjuster License Number BA 632432 to Rafik Adel G. Youssef Abdel Mesih. The Brake
28 Adjuster License expired on December 31, 2015, and has not been renewed.

1 **JURISDICTION**

2 9. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that
3 the Director may revoke an automotive repair dealer registration, and subdivision (c) of that
4 section states that the Director may suspend, revoke, or place on probation the registration for all
5 places of business operated in this state by an automotive repair dealer upon a finding that the
6 automotive repair dealer has, or is, engaged in a course of repeated and willful violations of the
7 laws and regulations pertaining to an automotive repair dealer.

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

12 11. Bus. & Prof. Code section 9889.3 provides, in pertinent part:

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

15 . . .

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

17 12. Health and Safety Code (“Health & Saf. Code”) section 44002 provides, in pertinent
18 part, that the Director has all the powers and authority granted under the Automotive Repair Act
19 for enforcing the Motor Vehicle Inspection Program.

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

24 **STATUTORY PROVISIONS**

25 14. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

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

6

7 (4) Any other conduct that constitutes fraud.

8

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

11

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

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

21 16. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog
22 check stations shall be performed in accordance with procedures prescribed by the department.

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

26 18. Health & Saf. Code section 44072.2 states, in pertinent part:

27 The director may suspend, revoke, or take other disciplinary action
28 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 Saf. Code § 44000, et seq.)] and the regulations adopted
pursuant to it, which related to the licensed activities.

. . . .

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

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

2 19. Health & Saf. Code section 44072.10 states, in pertinent part:

3

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

7

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

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

12 **REGULATORY PROVISIONS**

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

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

18 22. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
19 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section
20 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
21 of this article."

22 23. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
23 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any
24 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
25 this article and has all the required emission control equipment and devices installed and
26 functioning correctly."

27 24. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
28 procedures which apply to all vehicles inspected in the State of California.

1 **COST RECOVERY**

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

6 **VID DATA REVIEW**

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

14 27. On or about March 18, 2015, Bureau representative Robert S. Martin initiated an
15 investigation in which he reviewed OIS Test Data in the Bureau's Vehicle Information Database
16 for MN Test Only. The investigation revealed that Respondents had fraudulently certified no less
17 than sixteen (16) vehicles using the illegal process of "clean plugging."¹ Specifically, the
18 investigation revealed sixteen (16) instances in which the VIN manually entered by the
19 technicians at the time of testing was completely different from the electronic VIN (eVIN) that
20 was transmitted from the vehicle as part of the smog inspection. In eight (8) of the sixteen (16)
21 inspections, the eVIN transmitted from the vehicle during the fraudulent inspection matched the
22 eVIN recorded during the very next smog inspection performed by the technician. Moreover,
23 Respondent Mesih performed six (6) consecutive inspections in a single day, all of which
24 recorded the very same eVIN. These discrepancies between the eVINs transmitted by the
25 vehicles during the inspections and the VINs manually entered by the technicians at the time of

26 ¹ Clean plugging refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

1 testing confirm that these sixteen (16) vehicles were fraudulently certified by MN Test Only and
 2 its employees by use of the clean plugging method. The following chart (i.e., "Table 1")
 3 illustrates documented clean plugging activities by Respondents between November 13, 2014,
 4 and April 1, 2015.

5 **Table 1**

6 Test Date and Time*	7 Vehicle Certified & 8 License No.	9 Certificate No.	10 Details
11 11/13/2014 12 1042-1046 hours	13 2002 Chevrolet Express 14 G1500 15 6V79822	16 PM054019C	17 VIN manually entered 18 by technician does not 19 match eVIN transmitted 20 by vehicle. Illegal test 21 performed by 22 Respondent 23 Abdelmalak.
24 12/11/2014 25 1542-1550 hours	26 2006 Chevrolet Express 27 G1500 28 VIN# 1GCFG15X061150923	PM054036C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Abdelmalak.
12/26/2014 1518-1523 hours	2008 Chevrolet Express G2500 8P72363	YN159804C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Abdelmalak.
01/30/2015 1640-1643 hours	2007 Chevrolet Express G2500 8G55084	YN159833C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
01/31/2015 1239-1246 hours	2006 Ford E350 Super Duty VIN# 1FTSS34S46HA20696	YN159835C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.

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02/09/2015 1524-1530 hours	2005 Toyota Tundra 7T51583	YN159840C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
02/10/2015 1059-1105 hours	2007 Chevrolet Express G2500 8G50830	YN159841C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
02/12/2015 1245-1250 hours	2003 GMC Savana 5BKV289	YN159843C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
02/12/2015 1250-1254 hours	2005 Chevrolet Astro Van 7S82831	YN159844C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
03/17/2015 1615-1621 hours	2007 Dodge Charger 2Q2T	YP007266C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
03/17/2015 1623-1628 hours	2000 Ford Crown Victoria 6PYM212	YP007267C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
03/17/2015 1629-1633 hours	2005 Mercury Grand Marquis 15081E1	YP007268C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.

1	03/17/2015	2009 Dodge Grand Caravan	YP007269C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
2	1641-1646 hours	45189N1		
3				
4	03/17/2015	2006 Chevrolet Express G1500	YP007270C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
5	1649-1655 hours	7X95975		
6				
7				
8	03/17/2015	2005 Ford Econoline E350 super duty	YP007271C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
9	1655-1701 hours	8Z49676		
10				
11	04/01/2015	2010 Ford E350 Super Duty	YP007284C	VIN manually entered by technician does not match eVIN transmitted by vehicle. Illegal test performed by Respondent Mesih.
12	0907-0918 hours	37024C1		
13				
14				

15 * Test times are in military time.

16
17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 28. Respondent Nsim's Automotive Repair Dealer Registration is subject to disciplinary
20 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that she made or
21 authorized statements which she knew or in the exercise of reasonable care should have known to
22 be untrue or misleading, as follows: Respondent certified that the 16 vehicles identified in
23 paragraph 27 and Table 1, above, had passed inspection and were in compliance with applicable
24 laws and regulations. In fact, those vehicles obtained certifications through the use of clean-
25 plugging methods in that the vehicles used during the OBD II functional tests were different
26 vehicles from those that received smog certificates of compliance so that they were not tested or
27 inspected as required by Health & Saf. Code section 44012. Complainant refers to, and by this

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1 reference incorporates, the allegations contained in paragraph 27 and Table 1, as though set forth
2 fully herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 29. Respondent Nsim's Automotive Repair Dealer Registration is subject to disciplinary
6 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that she committed
7 acts that constitute fraud by issuing electronic smog certificates of compliance for the 16 vehicles
8 identified in paragraph 27 and Table 1, above, without performing bona fide inspections of the
9 emission control devices and systems on the vehicles, thereby depriving the People of the State of
10 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
11 refers to, and by this reference incorporates, the allegations contained in paragraph 27 and Table
12 1, as though set forth fully herein.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 30. Respondent Nsim has subjected her Automotive Repair Dealer Registration to
16 discipline under Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that she failed in a
17 "material respect to comply with the provisions of this chapter or regulations adopted pursuant to
18 it" when she issued electronic certificates of compliance for the 16 vehicles identified in
19 paragraph 27 and Table 1, above, without performing bona fide inspections of the emission
20 control devices and systems on those vehicles, thereby depriving the People of the State of
21 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
22 refers to, and by this reference incorporates the allegations contained in paragraph 27 and Table 1
23 as though set forth fully herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

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

26 31. Respondent Nsim's Smog Check Test Only Station License is subject to disciplinary
27 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that she failed to
28 comply with the following sections of that Code:

1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on the 16 vehicles identified in paragraph 27 and Table 1, above, in accordance with
3 procedures prescribed by the department.

4 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the
5 16 vehicles identified in paragraph 27 and Table 1, above, without ensuring that the vehicles were
6 properly tested and inspected to determine if they were in compliance with Health & Saf. Code
7 section 44012.

8 Complainant refers to, and by this reference incorporates the allegations contained in
9 paragraph 27 and Table 1 as though set forth fully herein.

10 **FIFTH CAUSE FOR DISCIPLINE**

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

13 32. Respondent Nsim's Smog Check Test Only Station License is subject to disciplinary
14 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that she failed to
15 comply with provisions of California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
17 electronic smog certificates of compliance for the 16 vehicles identified in paragraph 27 and
18 Table 1, above.

19 b. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
20 compliance for the 16 vehicles identified in paragraph 27 and Table 1, above, even though the
21 vehicles had not been inspected in accordance with section 3340.42.

22 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
23 conducted on the 16 vehicles identified in paragraph 27 and Table 1, above, in accordance with
24 the Bureau's specifications.

25 Complainant refers to, and by this reference incorporates, the allegations contained in
26 paragraph 27 and Table 1, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 33. Respondent Nsim's Smog Check Test Only Station License is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that she committed
5 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
6 certificates of compliance for the 16 vehicles identified in paragraph 27 and Table 1, above,
7 without performing bona fide inspections of the emission control devices and systems on the
8 vehicles, thereby depriving the People of the State of California of the protection afforded by the
9 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
10 allegations contained in paragraph 27 and Table 1, as though set forth fully herein.

11 **SEVENTH CAUSE FOR DISCIPLINE**

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

13 34. Respondent Abdelmalak's and Respondent Mesih's respective Smog Check Inspector
14 Licenses and Smog Check Repair Technician Licenses are subject to disciplinary action pursuant
15 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondents failed to comply with
16 section 44012 of that Code in a material respect, as follows: Respondents failed to perform the
17 emission control tests on the 16 vehicles identified in paragraph 27 and Table 1, above, in
18 accordance with procedures prescribed by the department. Complainant refers to, and by this
19 reference incorporates, the allegations contained in paragraph 27 and Table 1, as though set forth
20 fully herein.

21 **EIGHTH CAUSE FOR DISCIPLINE**

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

24 35. Respondent Abdelmalak's and Respondent Mesih's respective Smog Check Inspector
25 Licenses and Smog Check Repair Technician Licenses are subject to disciplinary action pursuant
26 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondents failed to comply with
27 provisions of California Code of Regulations, title 16, as follows:

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1 a. **Section 3340.24, subdivision (c)**: Respondents falsely or fraudulently issued
2 electronic smog certificates of compliance for the 16 vehicles identified in paragraph 27 and
3 Table 1 above.

4 b. **Section 3340.30, subdivision (a)**: Respondents failed to inspect and test the 16
5 vehicles identified in paragraph 27 and Table 1, above, in accordance with Health & Saf. Code
6 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

7 c. **Section 3340.42**: Respondents failed to conduct the required smog tests on the 16
8 vehicles identified in paragraph 27 and Table 1 above, in accordance with the Bureau's
9 specifications.

10 Complainant refers to, and by this reference incorporates the allegations contained in
11 paragraph 27 and Table 1 as though set forth fully herein.

12 **NINTH CAUSE FOR DISCIPLINE**

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

14 36. Respondent Abdelmalak's and Respondent Mesih's respective Smog Check Inspector
15 Licenses and Smog Check Repair Technician Licenses are subject to disciplinary action pursuant
16 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondents committed dishonest,
17 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
18 of compliance for the 16 vehicles identified in paragraph 27 and Table 1, above, without
19 performing bona fide inspections of the emission control devices and systems on the vehicles,
20 thereby depriving the People of the State of California of the protection afforded by the Motor
21 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates the
22 allegations contained in paragraph 27 and Table 1 as though set forth fully herein.

23 **TENTH CAUSE FOR DISCIPLINE**

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

25 37. Respondent Mesih's brake adjuster license is subject to disciplinary action pursuant
26 to Bus. and Prof. Code section 9889.3, subdivision (d), in that Respondent Mesih committed
27 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
28 certificates of compliance for the vehicles identified in paragraph 27 and Table 1, above, without

1 performing bona fide inspections of the emission control devices and systems on the vehicles,
2 thereby depriving the People of the State of California of the protection afforded by the Motor
3 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates the
4 allegations contained in paragraph 27 and Table 1 as though set forth fully herein.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

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

7 38. Respondents Alex's Auto Repair & Electric, Inc.'s and K & M Auto Service Group,
8 Inc.'s Automotive Repair Dealer Registrations, Smog Check Test and Repair Licenses, Station
9 Lamp Station and Brake Station Licenses are subject to disciplinary action pursuant to Bus. and
10 Prof. Code section 9889.3, subdivision (d), in that Respondent Atef Salib Abdelmalak, president
11 and owner of those corporations, has committed dishonest, fraudulent, or deceitful acts whereby
12 another was injured by issuing electronic smog certificates of compliance for the vehicles
13 identified in paragraph 27 and Table 1, above, without performing bona fide inspections of the
14 emission control devices and systems on the vehicles, thereby depriving the People of the State of
15 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
16 refers to, and by this reference incorporates the allegations contained in paragraph 27 and Table 1
17 as though set forth fully herein.

18 **OTHER MATTERS**

19 39. Pursuant to Health & Saf. Code section 44072, the Director may suspend, revoke, or
20 place on probation all licenses issued under the Motor Vehicle Inspection Program to Alex's Auto
21 Repair & Electric, Inc. and K & M Auto Service Group, Inc., upon a finding that Respondent
22 Atef Salib Abdelmalak, president and owner of those corporations, has violated Health and Safety
23 Code section 44072.2, subdivisions (a), (b) and/or (c).

24 **PRAAYER**

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

27 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 269737
28 issued to Magy Adel Nsim, dba MN Test Only;

- 1 2. Revoking or suspending Smog Check Test Only Station License No.
- 2 TC 269737 issued to Magy Adel Nsim, dba MN Test Only;
- 3 3. Revoking or suspending Smog Check Inspector License (EO) Number 633890 and
- 4 Smog Check Repair Technician (EI) License Number 633890 issued to Atef Salib Abdelmalak;
- 5 4. Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 6 249275 issued to Alex's Auto Repair & Electric, Inc.;
- 7 5. Revoking or suspending Smog Check Station License Number RC 249275 issued to
- 8 Alex's Auto Repair & Electric, Inc.;
- 9 6. Revoking or suspending Lamp Station License Number LS 249275 issued to Alex's
- 10 Auto Repair & Electric, Inc.;
- 11 7. Revoking or suspending Brake Station License Number BS 249275 issued to Alex's
- 12 Auto Repair & Electric, Inc.;
- 13 8. Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 14 241350 issued to K & M Auto Service Group, Inc., dba Alex's Auto Repair & Electric;
- 15 9. Revoking or suspending Smog Check Station License Number RC 241350 issued to
- 16 K & M Auto Service Group, Inc., dba Alex's Auto Repair & Electric;
- 17 10. Revoking or suspending Lamp Station License Number LS 241350 issued to K & M
- 18 Auto Service Group, Inc., dba Alex's Auto Repair & Electric;
- 19 11. Revoking or suspending Brake Station License Number BS 241350 issued to K & M
- 20 Auto Service Group, Inc., dba Alex's Auto Repair & Electric;
- 21 12. Revoking or suspending Smog Check Inspector License (EO) Number 632432 and
- 22 Smog Check Repair Technician (EI) License Number 632432 issued to Rafik Adel G. Youssef
- 23 Abdel Mesih;
- 24 13. Revoking or suspending Brake Adjuster License Number BA 632432 issued to Rafik
- 25 Adel G. Youssef Abdel Mesih;
- 26 14. Ordering Respondent Nsim, Abdelmalak, Alex's Auto Repair & Electric, Inc., K &
- 27 M Auto Service Group, Inc., dba Alex's Auto Repair & Electric, and Mesih, to pay the Director
- 28 ///

1 of Consumer Affairs the reasonable costs of the investigation and enforcement of this case,
2 pursuant to Business and Professions Code section 125.3; and

3 15. Taking such other and further action as deemed necessary and proper.

4
5 DATED: February 24, 2016 Patrick Dorais

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

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