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

12
13 In the Matter of the Accusation Against:

Case No. 79/21-16878

14 **EID WALID HADDAD-**
15 **PRESIDENT/SECRETARY/TREASURER-**
16 **HADDAD MOTORS, INC. DBA**
17 **PALMDALE SMOG CHECK**
18 **2627 East Palmdale Blvd., Unit B**
19 **Palmdale, CA 93550**
MAILING ADDRESS
20 **5765 West Avenue, J15**
21 **Lancaster, CA 93536**
22 **Automotive Repair Dealer Registration No.**
23 **ARD 290010**
24 **Smog Check Station License No. RC 290010**

ACCUSATION

25 **and**

26 **JUAN JOSE FERNANDEZ**
27 **45465 25th Street East, Spc. 237**
28 **Lancaster, CA 93535**
Smog Check Inspector License No.
EO 141389
Smog Check Repair License No.
EI 141389
(formerly Advanced Emission Specialist
Technician License No. EA 141389)

Respondents.

1 **PARTIES**

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

4 **Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc. dba Palmdale**
5 **Smog Check**

6 **Automotive Repair Dealer Registration**

7 2. On or about March 26, 2018, the Bureau issued Automotive Repair Dealer
8 Registration Number ARD 290010 to Eid Walid Haddad-President/Secretary/Treasurer-Haddad
9 Motors, Inc. dba Palmdale Smog Check (“Respondent Palmdale Smog”). The Automotive Repair
10 Dealer Registration was in full force and effect at all times relevant to the charges brought herein
11 and will expire on March 31, 2023, unless renewed.

12 **Smog Check Station License**

13 3. On or about April 5, 2018, the Bureau issued Smog Check Station License Number
14 RC 290010 to Respondent Palmdale Smog. The Smog Check Station License was in full force
15 and effect at all times relevant to the charges brought herein and will expire on March 31, 2023,
16 unless renewed.

17 **STAR Station Certification**

18 4. On or about May 7, 2018, the Bureau certified Palmdale Smog Check as a STAR
19 Station. The certification will remain active unless ARD 290010 and/or RC 290010 is revoked,
20 canceled, becomes delinquent, or the certification is invalidated.

21 **Juan Jose Fernandez**

22 **Smog Check Inspector License/Smog Check Repair Technician License**
23 **(formerly Advanced Emission Specialist Technician License Number EA 141389)**

24 5. In 1999, the Bureau issued Advanced Emission Specialist Technician License
25 Number EA 141389 to Juan Jose Fernandez (“Respondent Fernandez”). Respondent Fernandez’s
26 Advanced Emission Specialist Technician License was due to expire on February 28, 2014,
27 however, was cancelled on February 24, 2014. Pursuant to California Code of Regulations, title
28

1 16, section 3340.28, subdivision (e)¹, the license was renewed, pursuant to Respondent
2 Fernandez’s election, as Smog Check Inspector License Number EO 141389 and Smog Check
3 Repair Technician License Number EI 141389, effective February 24, 2014. Respondent
4 Fernandez's Smog Check Inspector License and Smog Check Repair Technician License were in
5 full force and effect at all times relevant to the charges brought herein and will expire on February
6 29, 2024, unless renewed.

7 **OTHER LICENSES**

8 **Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc. dba Elite Car Care**
9 **Automotive Repair Dealer Registration**

10 6. On or about August 28, 2018, the Bureau issued Automotive Repair Dealer
11 Registration Number ARD 291916 to Eid Walid Haddad-President/Secretary/Treasurer-Haddad
12 Motors, Inc. dba Elite Car Care. (“Respondent Elite Car”). The Automotive Repair Dealer
13 Registration was in full force and effect at all times relevant to the charges brought herein and
14 will expire on August 31, 2022, unless renewed.

15 **Smog Check Station License**

16 7. On or about September 7, 2018, the Bureau issued Smog Check Station License
17 Number RC 291916 to Respondent Elite Car. The Smog Check Station License was in full force
18 and effect at all times relevant to the charges brought herein and will expire on August 31, 2022,
19 unless renewed.

20 **Brake Station License**

21 8. On or about January 9, 2019, the Bureau issued Brake Station License Number BS
22 291916, Class C to Respondent Elite Car. The Brake Station License was in full force and effect
23 at all times relevant to the charges brought herein and will expire on August 31, 2022, unless
24 renewed.

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

1 **Lamp Station License**

2 9. On or about January 9, 2019, the Bureau issued Lamp Station License Number LS
3 291916, Class A to Respondent Elite Car. The Lamp Station License was in full force and effect
4 at all times relevant to the charges brought herein and will expire on August 31, 2022, unless
5 renewed.

6 **Eid Walid Haddad**

7 **Smog Check Inspector License/Smog Check Repair Technician License**
8 **(formerly Advanced Emission Specialist Technician License Number EA 150656)**

9 10. In 2004, the Bureau issued Advanced Emission Specialist Technician License
10 Number EA 150656 to Eid Walid Haddad (“Respondent Haddad”). Respondent Haddad’s
11 Advanced Emission Specialist Technician License was due to expire on April 30, 2013, however,
12 was cancelled on March 5, 2013. Pursuant to California Code of Regulations, title 16, section
13 3340.28, subdivision (e)², the license was renewed, pursuant to Respondent Haddad's election, as
14 Smog Check Inspector License Number EO 150656 and Smog Check Repair Technician License
15 Number EI 150656, effective March 5, 2013. Respondent Haddad's Smog Check Inspector
16 License and Smog Check Repair Technician License were in full force and effect at all times
17 relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

18 **Brake Adjuster License**

19 11. On or about December 6, 2018, the Bureau issued Brake Adjuster License Number
20 BA 150656, Class C to Respondent Haddad. Respondent Haddad’s brake adjuster license was in
21 full force and effect at all times relevant to the charges brought herein and expired on April 30,
22 2022, and has not been renewed.

23 **Lamp Adjuster License**

24 12. In 2007, the Bureau issued Lamp Adjuster License Number LA 150656, Class A to
25 Respondent Haddad. Respondent Haddad's lamp adjuster license was in full force and effect at

26 _____
27 ² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 all times relevant to the charges brought herein and expired on April 30, 2022, and has not been
2 renewed.

3 **JURISDICTION**

4 13. Business and Professions Code (“Code”) section 9884.7 provides that the Director
5 may revoke an automotive repair dealer registration.

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

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

13 16. Section 44072.6 of the Health and Safety Code 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 17. Section 44072.8 of the Health and Safety Code states:

18 When a license has been revoked or suspended following a hearing under this article,
19 any additional license issued under this chapter in the name of the licensee may be likewise
20 revoked or suspended by the director.

21 **STATUTORY PROVISIONS**

22 18. Section 9884.7 of the Code states:

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

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

1

2 (4) Any other conduct which constitutes fraud.

3

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

6

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

12 19. Section 44012 of the Health and Safety Code states:

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

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

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

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

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

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

standards, measurement of emissions of smoke or particulates, or both.

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

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

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

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

20. Section 44015 of the Health and Safety Code states:

....

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

21. Section 44032 of the Health and Safety Code states:

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

22. Section 44059 of the Health and Safety Code states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.

23. Section 44072.2 of the Health and Safety Code states:

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

1 (Health and Saf. Code, “ 44000, et seq.)] and the regulations adopted pursuant to it,
2 which related to the licensed activities.

3

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

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

8 24. Section 44072.8 of the Health and Safety Code states:

9 When a license has been revoked or suspended following a hearing under this
10 article, any additional license issued under this chapter in the name of the licensee
11 may be likewise revoked or suspended by the director.

12 25. Section 44072.10 of the Health and Safety Code, subdivision (c) states:

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

17 (1) Clean piping, as defined by the department.

18 (2) Tampering with a vehicle emission control system or test analyzer system.

19 (3) Tampering with a vehicle in a manner that would cause the vehicle to
20 falsely pass or falsely fail an inspection.

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

23 **REGULATORY PROVISIONS**

24 26. California Code of Regulations, title 16, section 3340.24, states:

25

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

29 27. California Code of Regulations, title 16, section 3340.30, states:

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

32 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
33 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code,
34 and section 3340.42 of this article..

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36 ///

1 28. California Code of Regulations, title 16, section 3340.35, subdivision (c) states:

2 (c) A licensed station shall issue a certificate of compliance or noncompliance
3 to the owner or operator of any vehicle that has been inspected in accordance with the
4 procedures specified in section 3340.42 of this article and has all the required
5 emission control equipment and devices installed and functioning correctly.

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

7

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

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

13 Smog check inspection methods are prescribed in the Smog Check Manual,
14 referenced by section 3340.45.

15 (a) All vehicles subject to a smog check inspection, shall receive one of the
16 following test methods:

17 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
18 model-year vehicle, except diesel-powered, registered in the enhanced program areas
19 of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
20 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
21 specifications referenced in subsection (a) of Section 3340.17 of this article. The
22 loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
23 including a chassis dynamometer, certified by the bureau.

24 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
25 inspection shall be measured and compared to the emissions standards shown in the
26 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
27 dated March 2010, which is hereby incorporated by reference. If the emissions
28 standards for a specific vehicle are not included in this table then the exhaust
emissions shall be compared to the emissions standards set forth in TABLE I or
TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
emissions are less than or equal to the applicable emission standards specified in the
applicable table.

(2) A two-speed idle mode test shall be the test method used to inspect 1976 -
1999 model-year vehicles, except diesel-powered, registered in all program areas of
the state, except in those areas of the state where the enhanced program has been
implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
contained in the bureau's specifications referenced in subsection (a) of Section
3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
shall be measured and compared to the emission standards set forth in this section and
as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
measured emissions are less than or equal to the applicable emissions standards
specified in Table III.

1 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
2 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
3 model-year and newer. The OBD test failure criteria are specified in section
4 3340.42.2.

5 (b) In addition to subsection (a), all vehicles subject to the smog check program
6 shall receive the following:

7 (1) A visual inspection of emission control components and systems to verify
8 the vehicle's emission control systems are properly installed.

9 (2) A functional inspection of emission control systems as specified in the
10 Smog Check Manual, referenced by section 3340.45, which may include an OBD
11 test, to verify their proper operation.

12 (c) The bureau may require any combination of the inspection methods in
13 sections (a) and (b) under any of the following circumstances:

14 (1) Vehicles that the department randomly selects pursuant to Health and Safety
15 Code section 44014.7 as a means of identifying potential operational problems with
16 vehicle OBD systems.

17 (2) Vehicles identified by the bureau as being operationally or physically
18 incompatible with inspection equipment.

19 (3) Vehicles with OBD systems that have demonstrated operational problems.

20 (d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
21 standards are as follows:

22 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
23 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
24 standards included in the tables described in subsection (a), as applicable.

25 (2) Vehicles with emission levels exceeding the emission standards for gross
26 polluters during an initial inspection will be considered gross polluters and the
27 provisions pertaining to gross polluting vehicles will apply, including, but not limited
28 to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of
compliance until the vehicle's emissions are reduced to or below the applicable
emissions standards for the vehicle included in the tables described in subsection (a),
as applicable. However, the provisions described in section 44017 of the Health and
Safety Code may apply.

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

COST RECOVERY

31. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL BACKGROUND

32. A Bureau Representative conducted a review of Palmdale Smog Check BAR-OIS smog check inspection records from the Vehicle Identification Database ("VID"). The review showed numerous vehicles that had been certified at Palmdale Smog Check with incorrect eVINs, with incorrect vehicle communication protocol³ and incorrect Parameter Identification⁴ (PID) count. This confirmed that the vehicles received smog certificates were not tested during the OBD II functional test, therefore the vehicles that received smog certificates were fraudulently tested during the smog inspection using the clean plugging method⁵. All of the following inspections were performed by Respondent Fernandez. The following chart illustrates the clean plugging activities of Respondents Palmdale Smog and Fernandez between on or about March 17, 2020 to on or about December 17, 2021.

TABLE 1

Test No.	Test Date	Vehicle Certified & License No.	Certificate No.	Technician License No.	OIS Test Data Details
1.	03/17/2020	2002 Mazda Protégé PR5 7SKY058	RG549185C	EO 141389 (Respondent Fernandez)	Comm. Protocol: JVPW (expected I914) PID Count: 21 (expected 18) VIN No.: Not Reported (Expected

³ Protocol is simply the language used to communicate with a vehicle’s computer(s). Protocol is a communication interface. This automated determination of the communication interface, or protocol, is built into the Data Acquisition Device (DAD) unit. This automatic function identifies five (5) protocols used by vehicles manufactured and sold in the United States that are subject to the Smog Check program.

⁴ Parameter Identifications (PIDs) are data points reported by the OBD II computer to the scan tool or BAR OIS.

⁵ Clean Plugging” refers to the use of another vehicle’s properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

					e-VIN- Not Expected
2.	04/29/2020	2005 Hyundai Sonata GL 5MZR920	RI349632C	EO 141389 (Respondent Fernandez)	Comm. Protocol: I914 (expected KWPF) PID Count: 17 (expected 21 or 21/1) VIN No.: Not Reported (Expected e-VIN- KMHWF25H6 5A167589)
3.	07/06/2020	2012 Toyota Camry Base 6VVU454	RM295436C	EO 141389 (Respondent Fernandez)	Comm. Protocol: ICAN11bt5 (expected ICAN11bt5) PID Count: 50 (expected 42) VIN No.: JTEZU5JR6C 5041810 (Expected e-VIN- 4T1BF1FK4C U576964)
4.	10/22/2021	2005 Kia Spectra LX 5SKW021	SI283544C	EO 141389 (Respondent Fernandez)	Comm. Protocol: I914 (expected KWPF) PID Count: 17 (expected 16/1 or 17/1) VIN No.: 4T1BE32K95 U586574 (Expected e-VIN- KNAFE12285 5199127)

1	5.	11/05/2021	2003 Honda Accord 5EBC430	SI731483C	EO 141389 (Respondent Fernandez)	Comm. Protocol: ICAN29bt5 (expected I914) PID Count: 39/19 (expected 20) VIN No.: 2HGFA1F50A H331708 (Expected e-VIN- Not Expected)
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10	6.	12/02/2021	2007 Ford F150 8N38652	SK336572C	EO 141389 (Respondent Fernandez)	Comm. Protocol: ICAN11bt5 (expected ICAN11bt5) PID Count: 47 (expected 47) VIN No.: 1FTNE24W77 DA74164 (Expected e-VIN- 1FTRF12237K D55818)
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19	7.	12/17/2021	2006 Chevrolet Aveo LT 5XNM890	SK788555C	EO 141389 (Respondent Fernandez)	Comm. Protocol: I914 (expected KWPF) PID Count: 21 (expected 36 or 36/1) VIN No.: 1HGCM56405 A091394 (Expected e-VIN- KL1TG66636 B653983)
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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 33. Respondent Palmdale Smog’s Automotive Repair Registration is subject to discipline
4 pursuant to Code section 9884.7, subdivision (a)(1), in that between March 17 2020, through
5 December 17, 2021, Respondent Palmdale Smog made or authorized statements which he knew
6 or in the exercise of reasonable care should have known to be untrue or misleading, as follows:
7 Respondent Palmdale Smog certified that vehicles 1 through 7, set forth above in Table 1, had
8 passed inspection and were in compliance with applicable laws and regulations. In fact,
9 Respondent Palmdale Smog conducted the inspections on the vehicles using the clean plugging
10 method by substituting or using different vehicles or another source during the OBD II functional
11 tests in order to issue smog certificates of compliance for the seven (7) vehicles, and did not test
12 or inspect the seven (7) vehicles as required by Health and Safety Code section 44012.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 34. Respondent Palmdale Smog’s Automotive Repair Registration is subject to discipline
16 pursuant to Code section 9884.7, subdivision (a)(4), in that between March 17 2020, through
17 December 17, 2021, Respondent Palmdale Smog committed acts which constitute fraud by
18 issuing electronic smog certificates of compliance for vehicles 1 through 7, set forth above in
19 Table 1, without performing bona fide inspections of the emission control devices and systems on
20 those vehicles, thereby depriving the People of the State of California of the protection afforded
21 by the Motor Vehicle Inspection Program.

22 **THIRD CAUSE FOR DISCIPLINE**

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

24 35. Respondent Palmdale Smog’s Smog Check Station License is subject to discipline
25 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between March 17
26 2020, through December 17, 2021, regarding vehicles 1 through 7, set forth above in Table 1,
27 Respondent Palmdale Smog failed to comply with the following sections of that Code:

28 ///

1 a. **Section 44012:** Respondent Palmdale Smog failed to ensure that the emission control
2 tests were performed on vehicles 1 through 7, in accordance with procedures prescribed by the
3 department.

4 b. **Section 44015, subdivision (b):** Respondent Palmdale Smog issued electronic smog
5 certificates of compliance for vehicles 1 through 7, without ensuring that the vehicles were
6 properly tested and inspected to determine if they were in compliance with Health and Safety
7 Code section 44012.

8 c. **Section 44059:** Respondent Palmdale Smog willfully made false entries for the
9 electronic smog certificates of compliance by certifying that those vehicles had been inspected as
10 required when, in fact, they had not.

11 **FOURTH CAUSE FOR DISCIPLINE**

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

14 36. Respondent Palmdale Smog's Smog Check Station License is subject to discipline
15 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between March 17
16 2020, through December 17, 2021, regarding vehicles 1 through 7, set forth above in Table 1,
17 Respondent Palmdale Smog failed to comply with provisions of California Code of Regulations,
18 title 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent Palmdale Smog falsely or fraudulently
20 issued electronic smog certificates of compliance for those vehicles without performing bona fide
21 inspections of the emission control devices and systems on the vehicles as required by Health and
22 Safety Code section 44012.

23 b. **Section 3340.35, subdivision (c):** Respondent Palmdale Smog issued electronic smog
24 certificates of compliance even though those vehicles had not been inspected in accordance with
25 section 3340.42 of that Code.

26 c. **Section 3340.42:** Respondent Palmdale Smog failed to conduct the required smog tests
27 and inspections on those vehicles in accordance with the Bureau's specifications.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 37. Respondent Palmdale Smog’s Smog Check Station License is subject to discipline
4 pursuant to Health and Safety Code sections 44072.2, subdivision (d) and 44072.10, subdivision
5 (c), in that between March 17 2020, through December 17, 2021, regarding vehicles 1 through 7,
6 set forth above in Table 1, Respondent Palmdale Smog committed acts involving dishonesty,
7 fraud or deceit whereby another was injured by issuing electronic smog certificates of compliance
8 for those vehicles without performing bona fide inspections of the emission control devices and
9 systems on the vehicles, thereby depriving the People of the State of California of the protection
10 afforded by the Motor Vehicle Inspection Program.

11 **SIXTH CAUSE FOR DISCIPLINE**

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

13 38. Respondent Fernandez’s Smog Check Inspector License and Smog Check Repair
14 Technician License are subject to discipline pursuant to Health and Safety Code section 44072.2,
15 subdivision (a), in that between March 17 2020, through December 17, 2021, regarding vehicles 1
16 through 7, set forth above in Table 1, he failed to comply with section 44012 of that Code in a
17 material respect, as follows: Respondent Fernandez failed to perform the emission control tests
18 on those vehicles in accordance with procedures prescribed by the department.

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

22 39. Respondent Fernandez’s Smog Check Inspector License and Smog Check Repair
23 Technician License are subject to discipline pursuant to Health and Safety Code section 44072.2,
24 subdivision (c), in that March 17 2020, through December 17, 2021, regarding vehicles 1 through
25 7, set forth above in Table 1, he failed to comply with provisions of California Code of
26 Regulations, title 16, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent Fernandez falsely or fraudulently issued
28 electronic smog certificates of compliance without performing bona fide inspections of the

1 emission control devices and systems on those vehicles as required by Health and Safety Code
2 section 44012.

3 b. **Section 3340.30, subdivision (a)**: Respondent Fernandez failed to inspect and test those
4 vehicles in accordance with Health and Safety Code sections 44012.

5 c. **Section 3340.42**: Respondent Fernandez failed to conduct the required smog tests and
6 inspections on those vehicles in accordance with the Bureau's specifications.

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 40. Respondent Fernandez's Smog Check Inspector License and Smog Check Repair
10 Technician License are subject to discipline pursuant to Health and Safety Code sections 44072.2,
11 subdivision (d) and 44072.10, subdivision (c), in that between March 17 2020, through December
12 17, 2021, regarding vehicles 1 through 7, set forth above in Table 1, he committed acts involving
13 dishonesty, fraud or deceit whereby another was injured by issuing electronic smog certificates of
14 compliance without performing bona fide inspections of the emission control devices and systems
15 on those vehicles, thereby depriving the People of the State of California of the protection
16 afforded by the Motor Vehicle Inspection Program.

17 **DATA REVIEW: CLEAN TANKING**

18 41. The Bureau has become aware of certain methods that some Smog Check stations
19 and Smog Check inspectors use to fraudulently issue smog certificates to vehicles that may not or
20 will not pass a Smog Check test on their own, or in some instances, are not even present during
21 the time the test is performed. "Clean tanking" is one such method, during which the Low
22 Pressure Fuel Evaporative Test (LPFET) is performed using the LPFET equipment calibration
23 tank instead of connecting to the subject vehicle's fuel inlet to determine if there is a leak in the
24 system. The LPFET tests the functionality of the vehicle's Evaporative Emissions Control
25 (EVAP) system by introducing inert Nitrogen gas into the vehicle's fuel system, which includes
26 the fuel tank, until it reaches a predetermined pressure and then holds that pressure for a specified
27 period of time to confirm no leaks are present in the system. As part of this test, the LPFET
28 equipment measures the "headspace volume" based upon the volume of gas needed to achieve a

1 specified pressure as the Nitrogen gas is introduced into the vehicle’s fuel tank, and records that
2 data to the Vehicle Information Database (VID). The “headspace volume” is the volume of the
3 vapor space in the fuel tank above the fuel level. This means a vehicle with a full tank of gas will
4 have a smaller headspace volume than a vehicle with less fuel in the tank. The LPFET equipment
5 must pass a calibration test every 3 days to verify its ability to properly measure the volume of
6 Nitrogen gas introduced during a test and the pressure readings. In order to pass the calibration
7 test, the amount of Nitrogen gas introduced to the calibration tank during the test must be within
8 the 1.5 to 2.5 gallon headspace volume range. If the LPFET equipment fails a calibration test, the
9 LPFET tester is locked and the station is not able to perform the LPFET test until the unit passes.

10 42. On February 24, 2022, the Bureau conducted a review of Palmdale Smog’s BAR-97
11 Smog Check inspection records from the VID for vehicles that received an LPFET test during the
12 period of March 17, 2020 through December 17, 2021. The review showed a total of 261 LPFET
13 tests passed. Of those 261 LPFET tests, 55.56 had a calculated headspace volume within the 1.5
14 to 2.5 gallon range, the same range the LPFET calibration tank is required to maintain, resulting
15 in 145 possible fraudulent certifications issued by Palmdale Smog. VID data show that of
16 certified vehicles statewide that received an LPFET test during the same period of time, just
17 14.49% reported a calculated headspace volume within the 1.5 to 2.5 gallon range. After
18 adjusting for the statewide percentage of expected headspace volume results in this range, the
19 data show that Palmdale Smog issued approximately 108 fraudulent certifications utilizing the
20 clean tanking method.

21 43. Of the 261 vehicles certified by Palmdale Smog with passing LPFET inspections
22 between March 17, 2020 through December 17, 2021, Respondent Fernandez performed 261,
23 with 55.56 reporting calculated headspace volumes within the 1.5 to 2.5 gallon range, resulting in
24 145 possible fraudulent certifications. After adjusting for the statewide percentage of expected
25 headspace volume results in this range (14.49%), the data show that Respondent Fernandez issued
26 approximately 108 fraudulent certifications utilizing the clean tanking method.

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NINTH CAUSE FOR DISCIPLINE

(Fraud)

44. Respondent Palmdale Smog’s Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent Palmdale Smog committed acts that constitute fraud by issuing electronic certificates of compliance for 108 vehicles, as described above in paragraph 42, without performing bone fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 41 through 43, above, as though set forth fully herein.

TENTH CAUSE FOR DISCIPLINE

(Material Violation of Automotive Repair Act)

45. Respondent Palmdale Smog’s Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent Palmdale Smog failed in a material respect to comply with the provisions of this chapter or regulations adopted pursuant to it when he issued electronic certificates of compliance for 108 vehicles, as described above in paragraph 42, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 41 through 43, above, as though set forth fully herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

46. Respondent Palmdale Smog’s Smog Check Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Palmdale Smog failed to comply with the following sections of that Code:

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1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on 108 vehicles, as described in paragraph 42 above, in accordance with procedures
3 prescribed by the department.

4 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
5 compliance for 108 vehicles, as described in paragraph 42 above, without ensuring that the
6 vehicles were properly tested and inspected to determine if they were in compliance with Health
7 and Safety Code section 44012.

8 Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraphs 41 through 43, above, as though set forth fully herein.

10 **TWELFTH CAUSE FOR DISCIPLINE**

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

13 47. Respondent Palmdale Smog's Smog Check Station License is subject to disciplinary
14 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent
15 Palmdale Smog failed to comply with provisions of California Code of Regulations, title 16, as
16 follows:

17 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
18 electronic smog certificates of compliance 108 vehicles as described in paragraph 42 above.

19 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test 108 vehicles,
20 as described in paragraph 42 above, in accordance with Health and Safety Code section 44012
21 and 44035, and California Code of Regulations, title 16, section 3340.42.

22 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
23 compliance for 108 vehicles, as described in paragraph 42 above, even though those vehicles had
24 not been inspected in accordance with California Code of Regulations, title 16, section 3340.42.

25 d. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
26 into the emissions inspection system for 108 vehicles as described in paragraph 42 above.

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1 e. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
2 on 108 vehicles, as described in paragraph 42 above, were done in accordance with the Bureau's
3 specifications.

4 Complainant refers to, and by this reference incorporates, the allegations contained in
5 paragraphs 41 through 43, above, as though set forth fully herein.

6 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

8 48. Respondent Palmdale Smog's Smog Check Station License is subject to disciplinary
9 action pursuant to Health and Safety Code section 44072.2, subdivisions (c) and (d), in that
10 Respondent Palmdale Smog committed dishonest, fraudulent, or deceitful acts whereby another
11 was injured by issuing electronic smog certificates of compliance for 108 vehicles, as described in
12 paragraph 42 above, without performing bona fide inspections of the emission control devices
13 and systems on the vehicles, thereby depriving the People of the State of California of the
14 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
15 reference incorporates, the allegations contained in paragraphs 41 through 43, above, as though
16 set forth fully herein.

17 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

19 49. Respondent Fernandez's Smog Check Inspector License and Smog Check Repair
20 License are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,
21 subdivision (a), in that he failed to comply with the following sections of that code:

22 a. **Section 44032:** Respondent failed to ensure that the emission control tests were
23 performed on 108 vehicles, as described in paragraph 43 above, in accordance with Health and
24 Safety Code section 44012.

25 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
26 compliance for 108 vehicles, as described in paragraph 43 above, without ensuring that the
27 vehicles were properly tested and inspected to determine if they were in compliance with Health
28 and Safety Code section 44012.

1 Complainant refers to, and by this reference incorporates, the allegations contained in
2 paragraphs 41 through 43, above, as though set forth fully herein.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

6 50. Respondent Fernandez's Smog Check Inspector License and Smog Check Repair
7 License are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,
8 subdivision (c), in that he failed to comply with provisions of California Code of Regulations,
9 title 16, as follows:

10 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued
11 electronic smog certificates of compliance for 108 vehicles as described in paragraph 43 above.

12 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test 108 vehicles,
13 as described in paragraph 43 above, in accordance with Health and Safety Code sections 44012
14 and 44035, and California Code of Regulations, title 16, section 3340.42.

15 c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered false information
16 into the emissions inspection system for 108 vehicles as described in paragraph 43 above.

17 d. **Section 3340.42**: Respondent failed to ensure that the smog inspections conducted
18 on 108 vehicles, as described in paragraph 43 above, were done in accordance with the Bureau's
19 specifications.

20 Complainant refers to, and by this reference incorporates, the allegations contained in
21 paragraphs 41 through 43, above, as though set forth fully herein.

22 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

24 51. Respondent Fernandez's Smog Check Inspector License and Smog Check Repair
25 License are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,
26 subdivisions (c) and (d), in that he committed dishonest, fraudulent, or deceitful acts whereby
27 another was injured by issuing electronic smog certificates of compliance for 108 vehicles, as
28 described in paragraph 43 above, without performing bona fide inspections of the emission

1 control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
3 refers to, and by this reference incorporates, the allegations contained in paragraphs 41 through
4 43, above, as though set forth fully herein.

5 **DISCIPLINE CONSIDERATIONS**

6 52. To determine the degree of discipline, if any, to be imposed on Respondent Haddad,
7 Complainant alleges that on or about June 15, 2015, in a prior action, the Bureau issued Citation
8 Number M2015-1238 with an Order of Abatement. The Citation became effective November 22,
9 2015. That Citation is now final and is incorporated by reference as if fully set forth.

10 **OTHER MATTERS**

11 53. Pursuant to Code section 9884.7, subdivision (c), the director may suspend revoke,
12 or place on probation the registrations for all places of business operated in this state by Eid
13 Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc., upon a finding that said
14 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
15 regulations pertaining to an automotive repair dealer.

16 54. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
17 Number RC 290010 issued to Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors,
18 Inc. dba Palmdale Smog Check, is revoked or suspended, any additional license issued under
19 Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be
20 likewise revoked or suspended by the director.

21 55. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
22 License Number EO 141389 and Smog Check Repair Technician License Number EI 141389
23 (formerly Advanced Emission Specialist Technician License Number EA 141389), issued to Juan
24 Jose Fernandez, is revoked or suspended, any additional license issued under this Chapter 5 of
25 Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise
26 revoked or suspended by the director.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 290010, issued to Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc. dba H;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Haddad Motors, Inc.;

3. Revoking or suspending Smog Check Station License Number RC 290010, issued to Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc. dba Palmdale Smog Check;

4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Haddad Motors, Inc.;

5. Revoking or suspending Smog Check Repair Technician License Number EO 141389, issued to Juan Jose Fernandez;

6. Revoking or suspending Smog Check Repair Technician License Number, issued to Juan Jose Fernandez;

7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Juan Jose Fernandez;

8. Ordering Eid Walid Haddad-President/Secretary/Treasurer-Haddad Motors, Inc. dba Palmdale Smog Check, Eid Walid Haddad and Juan Jose Fernandez to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: As of Digital Signature Date

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

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