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

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

13 **KHALIL AILABOUNI, OWNER, DOING**  
14 **BUSINESS AS PALM SPRINGS SMOG**  
15 **TEST CENTER ONLY**  
280 W. San Rafael Dr. Unit F  
16 Palm Springs, CA 92262

17 **Automotive Repair Dealer Registration No.**  
**ARD 189852**  
18 **Smog Check-Test Only Station License No.**  
**TC 189852,**

19 **and**

20 **SHOUKRY AMIR AILABOUNI**  
315 Sepulveda Road  
21 Palm Springs, CA 92262

22 **Smog Check Inspector License No. EO**  
146390 (formerly Advanced Emission  
23 **Specialist Technician License No. EA**  
146390)

24 Respondents.  
25

26 ///

27 ///

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Case No. 79/16-16

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

(SMOG CHECK)

1 Complainant alleges:

2 **PARTIES**

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

6 2. In 1996, the Bureau of Automotive Repair issued Automotive Repair Dealer  
7 Registration Number ARD 189852 to Khalil Ailabouni, Owner, doing business as Palm Springs  
8 Smog Test Center Only (Palm Springs Smog Test Center Only). The Automotive Repair Dealer  
9 Registration was in full force and effect at all times relevant to the charges brought herein and will  
10 expire on July 31, 2016, unless renewed.

11 3. On or about July 18, 2000, the Bureau of Automotive Repair issued Smog Check-Test  
12 Only Station License Number TC 189852 to Palm Springs Smog Test Center Only. The Smog  
13 Check-Test Only Station License was in full force and effect at all times relevant to the charges  
14 brought herein and will expire on July 31, 2016, unless renewed.

15 4. In 2003, the Bureau of Automotive Bureau issued Advanced Emission Specialist (EA)  
16 Technician License No. EA 146390 to Shoukry Amir Ailabouni (Ailabouni). It expired and was  
17 cancelled on July 31, 2013. Under California Code of Regulations, title 16, section 3340.28,  
18 subdivision (e), the license was renewed, under Ailabouni's election, as Smog Check Inspector  
19 License No. EO 146390, effective July 31, 2013. The Smog Check Inspector License was in full  
20 force and effect at all times relevant to the charges brought herein and will expire on January 2,  
21 2016, unless renewed.<sup>1</sup>

22 5. In a disciplinary action entitled "Palm Springs Smog Test Center Only; Khalil  
23 Ailabouni, Owner," Case No. 79/12-48, the Bureau of Automotive Repair issued a Decision and  
24 Order effective February 14, 2013, in which Respondent's Automotive Repair Dealer Registration  
25 and Smog Check Test Only Station license were revoked. However, the revocation was stayed

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

1 and Respondent's Automotive Repair Dealer Registration and Smog Check Test Only Station  
2 license was placed on probation for three (3) years with certain terms and conditions. A copy of  
3 that Decision and Order is attached as Exhibit A and is incorporated by reference.

4 **JURISDICTION AND STATUTORY PROVISIONS FOR ACCUSATION**

5 6. This Accusation is brought before the Director of the Department of Consumer Affairs  
6 (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

7 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
8 surrender, cancellation of a license shall not deprive the Director of jurisdiction to proceed with a  
9 disciplinary action during the period within which the license may be renewed, restored, reissued  
10 or reinstated.

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

15 9. Section 9884.20 of the Code states:

16 "All accusations against automotive repair dealers shall be filed within three years after the  
17 performance of the act or omission alleged as the ground for disciplinary action, except that with  
18 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the  
19 accusation may be filed within two years after the discovery, by the bureau, of the alleged facts  
20 constituting the fraud or misrepresentation."

21 10. Section 9884.22 of the Code states:

22 "(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny  
23 at any time any registration required by this article on any of the grounds for disciplinary action  
24 provided in this article. The proceedings under this article shall be conducted in accordance with  
25 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
26 Code, and the director shall have all the powers granted therein.

27 "..."

1           11. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
2 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
3 the Motor Vehicle Inspection Program.

4           12. Section 44072 of the Health and Safety Code states:

5           “Any license issued under this chapter and the regulations adopted pursuant to it may be  
6 suspended or revoked by the director. The director may refuse to issue a license to any applicant  
7 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted  
8 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2  
9 of the Government Code, and the director shall have all the powers granted therein.”

10          13. Section 44072.4 of the Health and Safety Code states:

11          “The director may take disciplinary action against any licensee after a hearing as provided in  
12 this article by any of the following:

13           “(a) Imposing probation upon terms and conditions to be set forth by the director.

14           “(b) Suspending the license.

15           “(c) Revoking the license.”

16          14. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
17 expiration or suspension of a license by operation of law, or by order or decision of the Director of  
18 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the  
19 Director of jurisdiction to proceed with disciplinary action.

20          15. Section 44072.7 of the Health and Safety Code states:

21          “All accusations against licensees shall be filed within three years after the act or omission  
22 alleged as the ground for disciplinary action, except that with respect to an accusation alleging a  
23 violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after  
24 the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation  
25 prohibited by that section.”

26          ///

27          ///

28          ///

1 16. Section 44072.8 of the Health and Safety Code states:

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

5 **STATUTORY PROVISIONS**

6 17. Section 22 of the Code states:

7 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the  
8 administration of the provision is vested, and unless otherwise expressly provided, shall include  
9 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and  
10 'agency.'

11 "(b) Whenever the regulatory program of a board that is subject to review by the Joint  
12 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2  
13 (commencing with Section 473), is taken over by the department, that program shall be designated  
14 as a 'bureau.'"

15 18. Section 23.7 of the Code states:

16 "Unless otherwise expressly provided, 'license' means license, certificate, registration, or  
17 other means to engage in a business or profession regulated by this code or referred to in Section  
18 1000 or 3600."

19 19. Section 9884.7 of the Code states:

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

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

28 "...

1           “(4) Any other conduct that constitutes fraud.

2           “...

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

7           20. Section 44012 of the Health and Safety Code states:

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

19           “(a) Emission control systems required by state and federal law are reducing excess  
20 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of Section  
21 44013.

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

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

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

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

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

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

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

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

23           21. Section 44015 of the Health and Safety Code states:

24           “(a) A licensed smog check station shall not issue a certificate of compliance, except as  
25 authorized by this chapter, to any vehicle that meets the following criteria:

26           “(1) A vehicle that has been tampered with.

27           “(2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision (b) of  
28 Section 44036. A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision

1 (b) of Section 44036 shall be directed to the department to determine whether an inadvertent error  
2 can explain the irregularity, or whether the vehicle otherwise meets smog check requirements,  
3 allowing the certificate for compliance to be issued, or the vehicle shall be reinspected by a referee  
4 or another smog check station.

5 “(3) A vehicle that, prior to repairs, has been initially identified by the smog check station as  
6 a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-  
7 only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections  
8 44014 and 44014.2.

9 “(4) A vehicle described in subdivision (c).

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

12 “(c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity  
13 authorized to perform referee functions for a vehicle that has been properly tested but does not  
14 meet the applicable emission standards when it is determined that no adjustment or repair can be  
15 made that will reduce emissions from the inspected motor vehicle without exceeding the applicable  
16 repair cost limit established under Section 44017 and that every defect specified by paragraph (2)  
17 of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section  
18 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be  
19 accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3  
20 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver  
21 shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost  
22 limit specified in Section 44017.

23 “(2) An economic hardship extension shall be issued, upon request of a qualified low-income  
24 motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that  
25 has been properly tested but does not meet the applicable emission standards when it is determined  
26 that no adjustment or repair can be made that will reduce emissions from the inspected motor  
27 vehicle without exceeding the applicable repair cost limit, as established pursuant to Section  
28 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in

1 paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the low-  
2 income vehicle owner would suffer an economic hardship if the extension is not issued, and that all  
3 appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section  
4 44017.1 have been performed.

5 “(d) No repair cost waiver or economic hardship extension shall be issued under any of the  
6 following circumstances:

7 “(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the  
8 previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension  
9 may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that  
10 owner. However, a repair cost waiver or economic hardship extension may be issued for a motor  
11 vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as  
12 determined by the department. For waivers or extensions issued in the program operative on or  
13 after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per  
14 owner.

15 “(2) Upon initial registration of all of the following:

16 “(A) A direct import motor vehicle.

17 “(B) A motor vehicle previously registered outside this state.

18 “(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

19 “(D) A motor vehicle that has had an engine change.

20 “(E) An alternate fuel vehicle.

21 “(F) A specially constructed vehicle.

22 “(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall  
23 be valid for 90 days.

24 “(f) Excluding any vehicle whose transfer of ownership and registration is described in  
25 subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in  
26 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle  
27 dealer shall be responsible for having a smog check inspection performed on, and a certificate of  
28 compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate

1 issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle is  
2 sold and registered to a retail buyer, whichever occurs first.

3 “(g) A test may be made at any time within 90 days prior to the date otherwise required.”

4 22. Section 44035 of the Health and Safety Code states:

5 “(a) A smog check station's license or a qualified smog check technician's qualification may  
6 be suspended or revoked by the department, after a hearing, for failure to meet or maintain the  
7 standards prescribed for qualification, equipment, performance, or conduct. The department shall  
8 adopt rules and regulations governing the suspension, revocation, and reinstatement of licenses  
9 and qualifications and the conduct of the hearings.

10 “(b) The department or its representatives, including quality assurance inspectors, shall be  
11 provided access to licensed stations for the purpose of examining property, station equipment,  
12 repair orders, emissions equipment maintenance records, and any emission inspection items, as  
13 defined by the department.”

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

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

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

21 "...

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

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

24 "...."

25 24. Section 44072.10 of the Health and Safety Code states:

26 "...



1           “(2) Sales tax shall not be assessed on the price of certificates.

2           “...”

3           28. California Code of Regulations, title 16, section 3340.41, subdivision (c) states:

4           “... ”

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

9           “...”

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

11          “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by  
12 section 3340.45.

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

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

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

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

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

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

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

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

20 “. . .”

21 30. California Code of Regulations, title 16, section 3395.4 states:

22 “In reaching a decision on a disciplinary action under the Administrative Procedure Act  
23 (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of  
24 Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary guidelines  
25 entitled ‘Guidelines for Disciplinary Penalties and Terms of Probation’ [May, 1997] which are  
26 hereby incorporated by reference. The ‘Guidelines for Disciplinary Penalties and Terms of  
27 Probation’ are advisory. Deviation from these guidelines and orders, including the standard terms  
28 of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion

1 determines that the facts of the particular case warrant such deviation -for example: the presence  
2 of mitigating factors; the age of the case; evidentiary problems.”

### 3 COSTS

4 31. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the  
5 administrative law judge to direct a licentiate found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
9 included in a stipulated settlement.

### 10 CLEAN PIPING

11 32. At all times alleged in this Accusation, Ailabouni and Khalil Ailabouni were acting in  
12 the course and within the scope of a technician, employee, partner, officer, or member of Palm  
13 Springs Smog Test Center Only.

14 33. On February 24-25, 2015, a Bureau representative conducted video surveillance at  
15 Palm Springs Smog Test Center Only. The Bureau representative used a vehicle that was  
16 equipped with a video camera and video recording equipment. Before the surveillance began, the  
17 Bureau representative verified that the clock of the video recording equipment was in sync with  
18 the Vehicle Information Database clock. When the recording stopped for the day, the Bureau  
19 representative created several DVDs from the video surveillance. After the Bureau representative  
20 made copies of the DVDs, the Bureau representative placed the originals in an envelope that was  
21 sealed and tagged. The Bureau representative transferred custody of the envelope containing the  
22 DVDs to another Bureau representative, who then secured the envelope with the DVDs in an  
23 evidence locker at the Bureau's Riverside field office.

24 34. Clean Pipe 1 – Ferrari 360

25 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
26 24, 2015, from 1152 hours to 1202 hours, Palm Springs Smog Test Center Only and Ailabouni  
27 performed a smog check inspection on a 2000 Ferrari 360 Modena/Spider, MN License #JEN006,  
28 (Ferrari 360). The Ferrari 360 was issued Certificate of Compliance #YP082892C.

1           35.     On the video surveillance of February 24, 2015, at 1139 hours a dark colored  
2 BMW 3-Series, with exterior paint graphics including blue and red stripes advertising for Palm  
3 Springs Smog and Palm Springs Auto Care (Ailabouni's BMW)<sup>2</sup> enters the smog bay at Palm  
4 Springs Smog Test Center Only's smog station. Ailabouni's BMW is in the smog bay during the  
5 recorded time of the Ferrari 360's certified smog inspection. Ailabouni's BMW leaves the smog  
6 bay at 1345 hours.

7           36.     The Ferrari 360 is never observed in the smog bay of Palm Springs Smog Test Center  
8 Only's smog station during the recorded time of the smog check inspection and did not receive the  
9 required tailpipe emissions inspection. Palm Springs Smog Test Center Only and Ailabouni clean-  
10 piped the Ferrari 360 by using the exhaust sample of Ailabouni's BMW.

11           37.     Clean Pipe 2 – Honda Accord

12           The BAR97 Test Detail from the Vehicle Information Database shows that on February  
13 24, 2015, from 1425 hours to 1433 hours, Palm Springs Smog Test Center Only and Ailabouni  
14 performed a smog check inspection on a 2000 Honda Accord, CA License #4JOA416, (Accord).  
15 The Accord was issued Certificate of Compliance #YP082893C.

16           38.     On the video surveillance of February 24, 2015, at 1426 hours Ailabouni's BMW  
17 enters the smog bay at Palm Springs Smog Test Center Only's smog station. Ailabouni's BMW  
18 is in the smog bay during the record time of the Accord's certified smog inspection.

19           39.     However, the Accord was never observed in the smog bay during the recorded time of  
20 the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
21 Springs Smog Test Center Only and Ailabouni clean-piped the Accord using the exhaust sample of  
22 Ailabouni's BMW.

23           40.     Clean Pipe 3 – 2001 Dodge Ram 1500 2WD

24           The BAR97 Test Detail from the Vehicle Information Database shows that on February  
25 24, 2015, from 1438 hours to 1445 hours, Palm Springs Smog Test Center Only and Ailabouni  
26

27 \_\_\_\_\_  
28           <sup>2</sup> Ailabouni owned this BMW 3-Series.

1 performed a smog check inspection on a 2001 Dodge Ram 1500 2WD, CA License #56034B1,  
2 (Ram). The Ram was issued Certificate of Compliance #YP082894C.

3 41. On the video surveillance of February 24, 2015, Ailabouni's BMW is in the smog bay  
4 during the record time of the Ram's certified smog inspection.

5 42. However, the Ram was never observed in the smog bay during the recorded time of  
6 the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
7 Springs Smog Test Center Only and Ailabouni clean-piped the Ram using the exhaust sample of  
8 Ailabouni's BMW.

9 43. Clean Pipe 4 – Lincoln Continental

10 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
11 24, 2015, from 1621 hours to 1629 hours, Palm Springs Smog Test Center Only and Ailabouni  
12 performed a smog check inspection on a 1997 Lincoln Continental, VIN  
13 #1LNLM97V8VY659018 (Continental). The Continental was issued Certificate of Compliance  
14 #YP082895C.

15 44. On the video surveillance of February 24, 2015, Ailabouni's BMW is in the smog bay  
16 during the record time of the Continental's certified smog inspection.

17 45. However, the Continental was never observed in the smog bay during the recorded  
18 time of the smog check inspection and did not receive the required tailpipe emissions inspection.  
19 Palm Springs Smog Test Center Only and Ailabouni clean-piped the Continental using the exhaust  
20 sample of Ailabouni's BMW.

21 46. Clean Pipe 5 – Toyota Camry Solara

22 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
23 24, 2015, from 1634 hours to 1645 hours, Palm Springs Smog Test Center Only and Ailabouni  
24 performed a smog check inspection on a 2003 Toyota Camry Solara, CA License #5BBH366  
25 (Solara). The Solara was issued Certificate of Compliance #YP082896C.

26 47. On the video surveillance of February 24, 2015, Ailabouni's BMW is in the smog bay  
27 during the record time of the Solara's certified smog inspection.

28

1           48. However, the Solara was never observed in the smog bay during the recorded time of  
2 the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
3 Springs Smog Test Center Only and Ailabouni clean-piped the Solara using the exhaust sample of  
4 Ailabouni's BMW.

5           49. Clean Pipe 6 – Honda Civic

6           The BAR97 Test Detail from the Vehicle Information Database shows that on February  
7 24, 2015, from 1652 hours to 1657 hours, Palm Springs Smog Test Center Only and Ailabouni  
8 performed a smog check inspection on a 1999 Honda Civic, CA License #5CBY390 (Civic). The  
9 Civic was issued Certificate of Compliance #YP082897C.

10           50. On the video surveillance of February 24, 2015, Ailabouni's BMW is in the smog bay  
11 during the record time of the Civic's certified smog inspection.

12           51. However, the Civic was never observed in the smog bay during the recorded time of  
13 the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
14 Springs Smog Test Center Only and Ailabouni clean-piped the Civic using the exhaust sample of  
15 Ailabouni's BMW.

16           52. Clean Pipe 7 – Ford Mustang

17           The BAR97 Test Detail from the Vehicle Information Database shows that on February  
18 24, 2015, from 1704 hours to 1711 hours, Palm Springs Smog Test Center Only and Ailabouni  
19 performed a smog check inspection on a 1995 Ford Mustang, CA License #4RXH847 (Mustang).  
20 The Mustang was issued Certificate of Compliance #YP082898C.

21           53. On the video surveillance of February 24, 2015, at 1704 hours a white Chevrolet  
22 Tahoe (the Tahoe) enters the smog bay. It remained in the smog bay during the record time of the  
23 Mustang's certified smog inspection.

24           54. However, the Mustang was never observed in the smog bay during the recorded time  
25 of the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
26 Springs Smog Test Center Only and Ailabouni clean-piped the Mustang using the exhaust sample  
27 of the Tahoe.

28

1 55. Clean Pipe 8 – Ford F150 Regular Cab Short

2 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
3 24, 2015, from 1716 hours to 1727 hours, Palm Springs Smog Test Center Only and Ailabouni  
4 performed a smog check inspection on a 1998 Ford F150 Regular Cab Short, CA License  
5 #7T67720 (Ford F150 Regular Cab Short). The Ford F150 Regular Cab Short was issued  
6 Certificate of Compliance #YP082899C.

7 56. On the video surveillance of February 24, 2015, the Tahoe is in the smog bay during  
8 the record time of the Ford F150 Regular Cab Short's certified smog inspection.

9 57. However, the Ford F150 Regular Cab Short was never observed in the smog bay  
10 during the recorded time of the smog check inspection and did not receive the required tailpipe  
11 emissions inspection. Palm Springs Smog Test Center Only and Ailabouni clean-piped the Ford  
12 F150 Regular Cab Short using the exhaust sample of the Tahoe.

13 58. Clean Pipe 9 – Chevrolet C1500 Silverado 2WD

14 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
15 25, 2015, from 1314 hours to 1327 hours, Palm Springs Smog Test Center Only and Ailabouni  
16 performed a smog check inspection on a 2004 Chevrolet C1500 Silverado 2WD, CA License  
17 #01233F1 (Chevrolet C1500 Silverado 2WD). The Chevrolet C1500 Silverado 2WD was issued  
18 Certificate of Compliance #YP082900C.

19 59. On the video surveillance of February 25, 2015, Ailabouni's BMW is in the smog bay  
20 during the record time of the Chevrolet C1500 Silverado 2WD's certified smog inspection.

21 60. However, the Chevrolet C1500 Silverado 2WD was never observed in the smog bay  
22 during the recorded time of the smog check inspection and did not receive the required tailpipe  
23 emissions inspection. Palm Springs Smog Test Center Only and Ailabouni clean-piped the  
24 Chevrolet C1500 Silverado 2WD using the exhaust sample of Ailabouni's BMW.

25 61. Clean Pipe 10 – Toyota Camry

26 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
27 25, 2015, from 1411 hours to 1421 hours, Palm Springs Smog Test Center Only and Ailabouni  
28

1 performed a smog check inspection on a 1997 Toyota Camry, CA License #3UGD344 (Camry).  
2 The Camry was issued Certificate of Compliance #YP208201C.

3 62. On the video surveillance of February 25, 2015, Ailabouni's BMW is in the smog bay  
4 during the record time of the Camry's certified smog inspection.

5 63. However, the Camry was never observed in the smog bay during the recorded time of  
6 the smog check inspection and did not receive the required tailpipe emissions inspection. Palm  
7 Springs Smog Test Center Only and Ailabouni clean-piped the Camry using the exhaust sample of  
8 Ailabouni's BMW.

9 64. Clean Pipe 11 – Ford Expedition

10 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
11 25, 2015, from 1441 hours to 1453 hours, Palm Springs Smog Test Center Only and Ailabouni  
12 performed a smog check inspection on a 1999 Ford Expedition, CA License #6HYT000  
13 (Expedition). The Expedition was issued Certificate of Compliance #YP208202C.

14 65. On the video surveillance of February 25, 2015, Ailabouni's BMW is in the smog bay  
15 during the record time of the Expedition's certified smog inspection.

16 66. However, the Expedition was never observed in the smog bay during the recorded  
17 time of the smog check inspection and did not receive the required tailpipe emissions inspection.  
18 Palm Springs Smog Test Center Only and Ailabouni clean-piped the Expedition using the exhaust  
19 sample of Ailabouni's BMW.

20 67. Clean Pipe 12 – Ford F250

21 The BAR97 Test Detail from the Vehicle Information Database shows that on February  
22 25, 2015, from 1506 hours to 1546 hours, Palm Springs Smog Test Center Only and Ailabouni  
23 performed a smog check inspection on a 1990 Ford F250, CA License #7S06800 (Ford F250).  
24 The Ford F250 was issued Certificate of Compliance #YP208203C.

25 68. On the video surveillance of February 25, 2015, Ailabouni's BMW and a Chevrolet  
26 Astro Van, CA License #6GXT503 (the Van) is in the smog bay during the record time of the  
27 Ford F250 certified smog inspection.

28

69. However, the Ford F250 was never observed in the smog bay during the recorded time of the smog check inspection and did not receive the required tailpipe emissions inspection. Palm Springs Smog Test Center Only and Ailabouni clean-piped the Ford F250 using the exhaust sample of Ailabouni's BMW and the Van.

70. The following table is a summary of the clean-piping performed by Palm Springs Smog Test Center Only and Ailabouni during the time of the surveillance:

**TABLE 1**

	Date & Time of Inspection as Certified in the VID	Information of Certified Vehicle and Smog Certificate of Compliance #	Vehicle certified observed in Smog Bay?	Vehicle Observed in Smog Bay During Time of Inspection
1	February 24, 2015, from 1152 hours to 1202 hours	2000 Ferrari 360 Modena/Spider; #YP082892C	No	Ailabouni's BMW
2	February 24, 2015, from 1425 hours to 1433 hours	2000 Honda Accord; #YP082893C	No	Ailabouni's BMW
3	February 24, 2015, from 1438 hours to 1445 hours	2001 Dodge Ram 1500 2WD; #YP082894C	No	Ailabouni's BMW
4	February 24, 2015, from 1621 hours to 1629 hours	1997 Lincoln Continental; #YP082895C	No	Ailabouni's BMW
5	February 24, 2015, from 1634 hours to 1645 hours	2003 Toyota Camry Solara; #YP082896C	No	Ailabouni's BMW
6	February 24, 2015, from 1652 hours to 1657 hours	1999 Honda Civic; #YP082897C	No	Ailabouni's BMW
7	February 24, 2015, from 1704 hours to 1711 hours	1995 Ford Mustang; #YP082898C	No	the Tahoe
8	February 24, 2015, from 1716 hours to 1727 hours	1998 Ford F150 Regular Cab Short; #YP082899C	No	the Tahoe
9	February 25, 2015, from 1314 hours to 1327 hours	2004 Chevrolet C1500 Silverado 2WD; #YP082900C	No	Ailabouni's BMW
10	February 25, 2015, from	1997 Toyota	No	Ailabouni's

	1411 hours to 1421 hours	Camry; #YP208201C		BMW
11	February 25, 2015, from 1441 hours to 1453 hours	1999 Ford Expedition; #YP208202C	No	Ailabouni's BMW
12	February 25, 2015, from 1506 hours to 1546 hours	1990 Ford F250; #YP208203C	No	Ailabouni's BMW and the Van

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

71. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 32-70.

72. Palm Springs Smog Test Center Only's Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(1), in that Palm Springs Smog Test Center Only made or authorized statements which Palm Springs Smog Test Center Only knew or in the exercise of reasonable care should have known to be untrue or misleading.

73. Palm Springs Smog Test Center Only certified that the vehicle(s) in Table 1 above had passed inspection and were in compliance with all applicable laws and regulations, when in fact and in truth Palm Springs Smog Test Center Only inspected the vehicle(s) using the clean piping method to issue certificates of compliance.

**SECOND CAUSE FOR DISCIPLINE**

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

74. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 32-73.

75. Palm Springs Smog Test Center Only's Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision (a), in that Palm Springs Smog Test Center Only failed to comply with the following sections of that Code:

a. **Section 44012:** Palm Springs Smog Test Center Only failed to perform the test(s) of the emission control systems and devices on the vehicle(s) described in Table 1 in accordance with procedures prescribed by the Department.



1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 78. Complainant re-alleges and incorporates by reference the allegations set forth above in  
4 paragraphs 32-77.

5 79. Palm Springs Smog Test Center Only's Registration is subject to disciplinary action  
6 under Code section 9884.7, subdivision (a)(4), and Palm Springs Smog Test Center Only's Station  
7 License is subject to disciplinary action under Health and Safety Code sections 44072.10,  
8 subdivision (c) and 44072.2, subdivision (d), in that Palm Springs Smog Test Center Only  
9 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing smog  
10 inspection certificate(s) for the vehicle(s) described in Table 1 without performing bona fide  
11 inspection(s) of the emission control devices and systems on them, thereby depriving the People of  
12 the State of California of the protection afforded by the Motor Vehicle Inspection Program.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Clean Piping)**

15 80. Complainant re-alleges and incorporates by reference the allegations set forth above in  
16 paragraphs 32-79.

17 81. Palm Springs Smog Test Center Only's Station license is subject to disciplinary action  
18 for clean piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in  
19 California Code of Regulations, title 16, section 3340.1, in that Palm Springs Smog Test Center  
20 Only used a substitute exhaust emission sample of one vehicle in place of another vehicle's exhaust  
21 emission sample in order to cause the Emissions Inspection System to issue certificates of  
22 compliance for the inspection(s) described in Table 1.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Violation of Motor Vehicle Inspection Program)**

25 82. Complainant re-alleges and incorporates by reference the allegations set forth above in  
26 paragraphs 32-81.

1 83. Ailabouni's license is subject to disciplinary action under Health and Safety Code  
2 sections 44072.10, subdivision (c) and 44072.2, subdivision (a), in that he failed to comply with  
3 the following sections of that Code:

4 a. **Section 44012**: Ailabouni failed to perform the test(s) of the emission control  
5 systems and devices on the vehicle(s) described in Table 1 in accordance with procedures  
6 prescribed by the Department.

7 b. **Section 44015**: Ailabouni issued certificate(s) of compliance for the vehicle(s)  
8 described in Table 1 without properly testing and inspecting them to determine if they complied  
9 with Health & Safety Code section 44012.

10 c. **Section 44035**: Ailabouni failed to meet or maintain the standards prescribed  
11 for qualification, equipment, performance, or conduct by failing to properly perform smog  
12 inspections on the vehicle(s) described in Table 1 or certifying that such test(s) had been properly  
13 performed, when in fact they were not properly performed.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Under Motor Vehicle Inspection Program)**

16 84. Complainant re-alleges and incorporates by reference the allegations set forth above in  
17 paragraphs 32-83.

18 85. Ailabouni's license is subject to disciplinary action under Health and Safety Code  
19 sections 44072.10, subdivision (c) and 44072.2, subdivision (a) in that he failed to comply with the  
20 following sections of California Code of Regulations, title 16:

21 a. **Section 3340.35, subdivision (c)**: Ailabouni failed to inspect and test the  
22 vehicle(s) described in Table 1 in accordance with the procedures specified in section 3340.42 of  
23 the Regulations and failed to ensure that the vehicle(s) had all the required emission control  
24 equipment and devices installed and functioning correctly.

25 b. **Section 3340.41, subdivision (c)**: Ailabouni knowingly entered into the  
26 Emissions Inspection System false information about the vehicle(s) described in Table 1 providing  
27 results for smog inspection(s) which were not properly performed.

28

1 c. **Section 3340.42:** Ailabouni failed to conduct the required smog tests on the  
2 vehicle(s) in Table 1 in accordance with the Bureau's specifications.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 86. Complainant re-alleges and incorporates by reference the allegations set forth above in  
6 paragraphs 32-85.

7 87. Ailabouni's license is subject to disciplinary action under Health and Safety Code  
8 sections 44072.10, subdivision (c) and 44072.2, subdivision (d); in that he committed dishonest,  
9 fraudulent, or deceitful acts whereby another is injured by issuing smog inspection certificate(s) for  
10 the vehicle(s) described in Table 1 without performing bona fide inspections of the emission  
11 control devices and systems on them, thereby depriving the People of the State of California of the  
12 protection afforded by the Motor Vehicle Inspection Program.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Clean Piping)**

15 88. Complainant re-alleges and incorporates by reference the allegations set forth above in  
16 paragraphs 32-87.

17 89. Ailabouni's license is subject to disciplinary action under Health & Safety Code, §  
18 44072.10, subdivision (c)(1), as defined in California Code of Regulations, title 16, section 3340.1,  
19 in that Ailabouni used a substitute exhaust emission sample of one vehicle in place of another  
20 vehicle's exhaust emission sample in order to cause the Emissions Inspection System to issue  
21 certificate(s) of compliance for the inspection(s) described in Table 1.

22 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

23 90. This Petition to Revoke Probation is brought before the Director of Consumer Affairs  
24 (Director) for the Bureau of Automotive Repair under Probation Term and Condition (a) of the  
25 Decision and Order "Palm Springs Smog Test Center Only; Khalil Ailabouni, Owner," Case No.  
26 79/12-48. That term and condition states:

27 "During the period of probation, respondent shall . . . [c]omply with all statutes, regulations  
28 and rules governing automotive inspections, estimates, and repairs."

1 **CAUSE TO REVOKE PROBATION**

2 **(Obey All Laws)**

3 91. Complainant re-alleges and incorporates by reference the allegations set forth above in  
4 paragraphs 32-90.

5 92. At all times after the effective date of Palm Springs Smog Test Center Only's  
6 probation, Condition (a) stated:

7 "During the period of probation, respondent shall: . . . [c]omply with all statutes, regulations  
8 and rules governing automotive inspections, estimates and repairs."

9 93. Palm Springs Smog Test Center Only's probation is subject to revocation because  
10 Palm Springs Smog Test Center Only violated Probation Condition (a), referenced above. Palm  
11 Springs Smog Test Center Only violated the following statutes, regulations, and rules governing  
12 automotive inspections, estimates, and repairs:

- 13 a Code section 9884.7, subdivision (a)(1).
- 14 b. Health and Safety Code section 44012.
- 15 c. Health and Safety Code section 44015.
- 16 d. Health and Safety Code section 44035.
- 17 e. California Code of Regulations, title 16, Section 3340.35, subdivision (c).
- 18 f. California Code of Regulations, title 16, Section 3340.41, subdivision (c).
- 19 g. California Code of Regulations, title 16, Section 3340.42.
- 20 h. Code section 9884.7, subdivision (a)(4).
- 21 i. Health and Safety Code section 44072.10, subdivision (c).
- 22 j. Health and Safety Code section 44072.2, subdivision (d).

23 **DISCIPLINARY CONSIDERATIONS**

24 94. To determine the degree of discipline, if any, Complainant alleges the following:

25 a. On or about July 17, 2002, the Bureau issued Citation No. C03-0094 to Palm Springs  
26 Smog Test Center Only for violations of Health and Safety Code section 44012, subdivision (f)  
27 (failure to perform a visual/functional check of emission control devices according to procedures  
28 prescribed by the department), and California Code of Regulations, title 16, section 3340.35,

1 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). Palm  
2 Springs Smog Test Center Only issued a certificate of compliance to a Bureau vehicle with the  
3 ignition timing adjusted beyond the manufacturer's specifications and a nonfunctional gas cap. The  
4 Bureau assessed civil penalties totaling \$500. Palm Springs Smog Test Center Only complied with  
5 this citation on September 4, 2002, and it is now final.

6 b. On or about October 17, 2002, the Bureau issued Citation No. C03-0484 to Palm  
7 Springs Smog Test Center Only for violations of Health and Safety Code section 44012,  
8 subdivision (f) (failure to perform a visual/functional check of emission control devices according  
9 to procedures prescribed by the department), and California Code of Regulations, title 16, section  
10 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly  
11 tested). Palm Springs Smog Test Center Only issued a certificate of compliance to a Bureau  
12 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. The Bureau  
13 assessed civil penalties totaling \$1,000. On or about November 27, 2002, Palm Springs Smog  
14 Test Center Only appealed the citation. A hearing was held on August 25, 2003. The citation was  
15 upheld and the penalty was reduced to \$500. Palm Springs Smog Test Center Only complied with  
16 this citation on February 3, 2004, and it is now final.

17 c. On or about May 15, 2009, the Bureau issued Citation No. C09-1311 to Palm Springs  
18 Smog Test Center Only for violations of Health and Safety Code section 44012, subdivision (f)  
19 (failure to perform a visual/functional check of emission control devices according to procedures  
20 prescribed by the department), and California Code of Regulations, title 16, section 3340.35,  
21 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). Palm  
22 Springs Smog Test Center Only issued a certificate of compliance to a Bureau vehicle with a  
23 missing fuel vapor canister. The Bureau assessed civil penalties totaling \$500. Palm Springs  
24 Smog Test Center Only complied with this citation on July 14, 2009, and it is now final.

25 d. On or about October 27, 2009, the Bureau issued Citation No. C2010-0409 to Palm  
26 Springs Smog Test Center Only for violations of Health and Safety Code section 44012,  
27 subdivision (f) (failure to perform a visual/functional check of emission control devices according  
28 to procedures prescribed by the department), and California Code of Regulations, title 16, section

1 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly  
2 tested). Palm Springs Smog Test Center Only issued a certificate of compliance to a Bureau  
3 vehicle with a missing exhaust gas recirculation valve, and failed to perform the low pressure fuel  
4 evaporative test and gas cap test. The Bureau assessed civil penalties totaling \$2,000. Palm  
5 Springs Smog Test Center Only complied with this citation on January 11, 2010, and it is now  
6 final.

7 e. On or about August 23, 2010, the Bureau issued Citation No. C2011-0206 to Palm  
8 Springs Smog Test Center Only for violations of Health and Safety Code section 44012,  
9 subdivision (f) (failure to perform a visual/functional check of emission control devices according  
10 to procedures prescribed by the department), and California Code of Regulations, title 16, section  
11 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly  
12 tested). Palm Springs Smog Test Center Only issued a certificate of compliance to a Bureau  
13 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. The Bureau  
14 assessed civil penalties totaling \$2,500. On or about October 21, 2010, Palm Springs Smog Test  
15 Center Only appealed the citation. On December 17, 2011, this citation was upheld. Palm  
16 Springs Smog Test Center Only complied with this citation on March 12, 2012, and it is now final.

### 17 18 **OTHER MATTERS**

19 95. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke, or  
20 place on probation the registration for all places of business operated in this State by Palm Springs  
21 Smog Test Center Only upon a finding that Palm Springs Smog Test Center Only has, or is,  
22 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
23 automotive repair dealer.

24 96. Under Health & Safety Code section 44072.8, if Palm Springs Smog Test Center  
25 Only's Station License is revoked or suspended, the Director may likewise revoke or suspend any  
26 additional license issued under Chapter 5 of the Health and Safety Code in the name of Palm  
27 Springs Smog Test Center Only.



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

3 9. Taking such other and further action as deemed necessary and proper.  
4  
5

6  
7 DATED: August 20, 2015

*Patrick Dorais*

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

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# **Exhibit A**

**Decision and Order**

**Bureau of Automotive Repair Case No. 79/12-48**