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

11 In the Matter of the Accusation Against:

12 **ANAHEIM TEST ONLY CENTER,**
13 **AHMAD MOHD MAHDI, OWNER**
3180 West Lincoln, #B
Anaheim, CA 92801

14 Automotive Repair Dealer Registration No. ARD 223770
15 Smog Check-Test Only Station License No. TC 223770,

16 and

17 **AHMAD MOHD MAHDI**
3180 West Lincoln, #B
Anaheim, CA 92801

18 Advanced Emission Specialist Technician License No.
19 EA 31515 (to be redesignated upon renewal as EO 31515
20 and/or EI 31515)

Respondents.

Case No. 79/14-69

12 **ACCUSATION**
13 **SMOG CHECK**

22 Complainant alleges:

23 **PARTIES**

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

26 **Automotive Repair Dealer Registration**

27 2. On October 2, 2002, the Bureau issued Automotive Repair Dealer Registration
28 Number ARD 223770 (registration) to Respondent Ahmad Mohd Mahdi, Owner, DBA Anaheim

1 Test Only Center. The registration will expire on September 30, 2014, unless renewed.

2 **Anaheim Test Only Center License**

3 3. On October 16, 2002, the Bureau issued Smog Check-Test Only Station License
4 Number TC 223770 (station license) to Respondent. The station license will expire on
5 September 30, 2014, unless renewed.

6 **Advanced Emission Specialist Technician License**

7 4. In 1998, the Bureau of Automotive Repair issued Advanced Emission Specialist
8 Technician License Number EA 31515 (technician license) to Respondent. The technician
9 license was in full force and effect at all times relevant to the charges brought herein and will
10 expire on March 31, 2014, unless renewed. Upon timely renewal of the license, the license will
11 be redesignated as EO 31515 and/or EI 31515.¹

12 **JURISDICTION**

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

15 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
16 registration shall not deprive the Director of the Department Consumer Affairs (Director)
17 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
18 render a decision temporarily or permanently invalidating, suspending, or revoking a registration.

19 7. Health and Safety Code (H & S Code) section 44002 provides, in pertinent part,
20 that the Director has all the powers and authority granted under the Automotive Repair Act for
21 enforcing the Motor Vehicle Inspection Program.

22 8. H & S Code section 44072.6 provides, in pertinent part, that the expiration or
23 suspension of a license by operation of law, or by order or decision of the Director, or a court of
24 law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to
25 proceed with disciplinary action.

26 ¹ 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 estimated price for labor and parts necessary for a specific job. No work shall be
2 done and no charges shall accrue before authorization to proceed is obtained from
3 the customer. No charge shall be made for work done or parts supplied in excess of
4 the estimated price without the oral or written consent of the customer that shall be
5 obtained at some time after it is determined that the estimated price is insufficient
6 and before the work not estimated is done or the parts not estimated are supplied.
7 Written consent or authorization for an increase in the original estimated price may
8 be provided by electronic mail or facsimile transmission from the customer. The
9 bureau may specify in regulation the procedures to be followed by an automotive
10 repair dealer if an authorization or consent for an increase in the original estimated
11 price is provided by electronic mail or facsimile transmission. If that consent is
12 oral, the dealer shall make a notation on the work order of the date, time, name of
13 person authorizing the additional repairs and telephone number called, if any,
14 together with a specification of the additional parts and labor and the total
15 additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature
or initials to an acknowledgment of notice and consent, if there is an oral consent
of the customer to additional repairs,

....

14. H & S Code section 44012 states:

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

....

(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.

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15. H & S Code section 44015 states in pertinent part:

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(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.

....

16. H & S Code section 44032 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.

17. H & S Code section 44072.2 states, in pertinent part:

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

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

....

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

....

18. H & S Code section 44072.8 states:

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

REGULATORY PROVISIONS

19. Regulations, section 3340.30 states in pertinent part:

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

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

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20. Regulations, section 3340.35 states in pertinent part:

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

(1) Customers shall be charged the same price for certificates as that paid by the licensed station; and

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

....

21. Regulations, section 3340.42 states:

With the exception of diesel-powered vehicles addressed in subsection (f) of this section, the following emissions test methods and standards apply to all vehicles:

(a) A loaded-mode test, except as otherwise specified, shall be the test method used to inspect vehicles registered in the enhanced program areas of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's specifications referenced in subsection (b) of Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emissions standards shown in the VLI Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby incorporated by reference. If the emissions standards for a specific vehicle is 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.

(b) A two-speed idle mode test, unless a different test is otherwise specified in this article, shall be the test method used to inspect vehicles 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 (b) 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.

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2 (e) In addition to the test methods prescribed in this section, the following
3 tests shall apply to all vehicles, except diesel-powered vehicles, during the Smog
4 Check inspection:

5 (1) A visual inspection of the vehicle's emissions control systems. During
6 the visual inspection, the technician shall verify that the following emission
7 control devices, as applicable, are properly installed on the vehicle:

8

9 (H) ignition spark controls, and

10 (1) any emissions control systems that are not otherwise prompted by the
11 Emissions Inspection System, but listed as a requirement by the vehicle
12 manufacturer.

13 (2) A functional inspection of the vehicle's emission control systems.
14 During the functional inspection, the technician shall conduct, as applicable, the
15 following tests and verifications of the vehicle:

16

17 (C) proper setting of ignition timing,

18

19 22. Regulations, section 3353 states:

20 No work for compensation shall be commenced and no charges shall
21 accrue without specific authorization from the customer in accordance with the
22 following requirements:

23 (a) Estimate for Parts and Labor. Every dealer shall give to each customer
24 a written estimated price for parts and labor for a specific job.

25

26 23. Regulations, section 3373 states:

27 No automotive repair dealer or individual in charge shall, in filling out an
28 estimate, invoice, or work order, or record required to be maintained by section
3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers,
prospective customers, or the public.

COST RECOVERY

24 24. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request
25 the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation

1 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
2 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
3 may be included in a stipulated settlement.

4 **MARCH 6, 2013 OPERATION: 1991 MAZDA**

5 25. On March 6, 2013, the Bureau conducted an operation at Respondent's smog
6 testing station, Anaheim Test Only Center. The Bureau's vehicle, a 1991 Mazda, was modified
7 to fail a proper smog inspection due to a misadjusted ignition timing, and a tamper indicator had
8 been installed to detect movement of its ignition distributor. A Bureau operator took the vehicle
9 to Respondent's smog station and requested a smog inspection. After Respondent completed the
10 smog test, the operator completed and signed a work order, paid Respondent \$58.00, and
11 received an unnumbered invoice and Vehicle Inspection Report (VIR) bearing Certificate of
12 Compliance Number [REDACTED] and Respondent's name as the smog technician who had
13 performed the smog test. The operator left Respondent's station and returned the vehicle to
14 Bureau personnel.

15 26. On March 11, 2013, Bureau personnel re-inspected the vehicle after the smog test
16 at Respondent's smog station. They determined that the condition of the vehicle as modified
17 before being tested at Respondent's smog station had not changed; the vehicle's ignition timing
18 was still misadjusted and the ignition distributor tamper indicator remained intact. Bureau
19 personnel performed a smog inspection on the vehicle, which failed the ignition timing
20 functional check due to its misadjusted timing.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 27. Respondent has subjected his registration to discipline under Code section 9884.7,
24 subdivision (a)(1), in that on March 6, 2013, he made statements which he knew or which by
25 exercise of reasonable care he should have known were untrue or misleading when he issued
26 electronic Certificate of Compliance No. [REDACTED] for the 1991 Mazda, certifying that the
27 vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle's
28 ignition timing was misadjusted.

1 comply with the following sections of that Code:

2 a. **Section 44012, subdivision (f):** Respondent failed to perform emission control tests
3 on the vehicle in accordance with procedures prescribed by the department.

4 b. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
5 Compliance No. [REDACTED] without properly testing and inspecting the vehicle to determine if it
6 was in compliance with section 44012 of that Code.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

9 31. Respondent has subjected his station license to discipline under H & S Code
10 section 44072.2, subdivision (c), in that in testing the 1991 Mazda on March 6, 2013, he failed to
11 comply with the following sections of the Regulations:

12 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
13 Compliance No. [REDACTED] even though the vehicle had not been inspected in accordance with
14 H & S Code section 3340.42.

15 b. **Section 3340.42:** Respondent failed to conduct the required smog tests and
16 inspections on the vehicle in accordance with the Bureau's specifications.

17 c. **Section 3353, subdivision (a):** Respondent failed to give his customer a written
18 estimated price for parts and labor to obtain specific authorization for the smog inspection of the
19 1991 Mazda as required prior to commencement of any work for compensation or accrual of
20 charges.

21 d. **Section 3373:** Respondent issued an electronic certificate of compliance for the 1991
22 Mazda based upon inaccurate information which caused that certificate to be false or misleading,
23 with the tendency or effect to mislead or deceive customers, prospective customers, or the
24 public.

25 **SIXTH CAUSE FOR DISCIPLINE**

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

27 32. Respondent has subjected his technician license to discipline under H & S Code
28 section 44072.2, subdivision (a), in that in testing the 1991 Mazda on March 6, 2013, he failed to

1 comply with the following sections of that Code:

2 a. **Section 44012, subdivision (a):** Respondent failed to determine that all emission
3 control devices and systems required by law were installed and functioning correctly in
4 accordance with test procedures.

5 b. **Section 44012, subdivision (f):** Respondent failed to perform emission control tests
6 on that vehicle in accordance with procedures prescribed by the department.

7 c. **Section 44032:** Respondent failed to perform tests of the emission control devices and
8 systems on that vehicle in accordance with H & S Code section 44012, in that he failed to detect
9 the vehicle's misadjusted ignition timing.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

12 33. Respondent has subjected his technician license to discipline under H & S Code
13 section 44072.2, subdivision (c), in that in testing the 1991 Mazda on March 6, 2013, he failed to
14 comply with the following sections of the Regulations:

15 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test that vehicle in
16 accordance with H & S Code section 44012.

17 b. **Section 3340.42:** Respondent failed to conduct the required smog tests and
18 inspections on that vehicle in accordance with the Bureau's specifications.

19 c. **Section 3373:** Respondent issued an electronic certificate of compliance for the 1991
20 Mazda based upon inaccurate information which caused that certificate to be false or misleading,
21 with the tendency or effect to mislead or deceive customers, prospective customers, or the
22 public.

23 **MATTERS IN AGGRAVATION**

24 34. To determine the degree of discipline, if any, to be imposed on Respondent,
25 Complainant alleges as follows:

26 a. On May 18, 2011, the Bureau issued Citation No. C2011-1330 to Respondent
27 against his station license for violating H & S Code section 44012, subdivision (f) (failure to
28 perform a visual and functional check of emission control devices according to procedures

1 prescribed by the department) in that on April 19, 2011, Respondent issued Certificate of
2 Compliance number [REDACTED] to an undercover vehicle with a missing positive crankcase
3 ventilation system. On June 9, 2011, a citation conference was held. The Bureau assessed civil
4 penalties totaling \$1,000.00 against Respondent for the violations. Respondent paid the fine on
5 June 27, 2011.

6 b. On May 18, 2011, the Bureau issued Citation No. M2011-1331 to Respondent
7 against his technician license for violating H & S Code section 44032 (qualified technicians shall
8 perform tests of emission control systems and devices in accordance with section 44012 of that
9 Code) in that on April 19, 2011, Respondent issued Certificate of Compliance number
10 [REDACTED] to an undercover vehicle with a missing positive crankcase ventilation system. On
11 June 9, 2011, a citation conference was held. The Bureau required Respondent to complete an 8-
12 hour training course. Respondent submitted proof of completion of remedial training prescribed
13 by the citation on June 15, 2011.

14 c. On February 17, 2012, the Bureau issued Citation No. C2012-0964 to
15 Respondent against his station license for violating H & S Code section 44012, subdivision (f)
16 (failure to determine that emission control devices and systems required by state and federal law
17 are installed and functioning correctly in accordance with test procedures) in that on January 26,
18 2012, Respondent issued Certificate of Compliance number [REDACTED] to an undercover vehicle
19 with a missing Positive Crankcase Ventilation system. On March 6, 2012, a citation conference
20 was held. The Bureau assessed civil penalties totaling \$1,500.00 against Respondent for the
21 violation. Respondent paid the fine on March 26, 2012.

22 d. On February 17, 2012, the Bureau issued Citation No. M2012-0965 to
23 Respondent against his technician license for violating H & S Code section 44032 (qualified
24 technicians shall perform tests of emission control systems and devices in accordance with
25 section 44012 of that Code) in that on January 26, 2012, Respondent issued Certificate of
26 Compliance number [REDACTED] to an undercover vehicle with a missing Positive Crankcase
27 Ventilation system. On March 6, 2012, a citation conference was held. The Bureau required
28 Respondent to complete a 16-hour training course. Respondent submitted proof of completion of

1 remedial training prescribed by the citation on March 16, 2012.

2 e. On June 29, 2012, the Bureau issued Citation No. C2012-1872 to Respondent
3 against his station license for violating H & S Code section 44012, subdivision (f) (failure to
4 determine that emission control devices and systems required by state and federal law are
5 installed and functioning correctly in accordance with test procedures) in that on May 7, 2012,
6 Respondent issued Certificate of Compliance number [REDACTED] to an undercover vehicle with a
7 missing Positive Crankcase Ventilation system. On July 26, 2012, a citation conference was
8 held. The Bureau assessed civil penalties totaling \$1,500.00 against Respondent for the
9 violation. Respondent paid the fine on August 24, 2012.

10 f. On June 29, 2012, the Bureau issued Citation No. M2012-1873 to Respondent
11 against his technician license for violating H & S Code section 44032 (qualified technicians shall
12 perform tests of emission control systems and devices in accordance with section 44012 of that
13 Code) in that on May 7, 2012, Respondent issued Certificate of Compliance number [REDACTED]
14 to an undercover vehicle with a missing Positive Crankcase Ventilation system. On July 26,
15 2012, a citation conference was held. The Bureau required Respondent to complete a 68-hour
16 training course. Respondent submitted proof of completion of remedial training prescribed by
17 the citation on August 22, 2012.

18 OTHER MATTERS

19 35. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend,
20 revoke or place on probation the registration for all places of business operated in this state by
21 Respondent Ahmad Mohd Mahdi, doing business as Anaheim Test Only Center, upon a finding
22 that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws
23 and regulations pertaining to automotive repair dealers.

24 36. Pursuant to H & S Code section 44072.8, if Smog Check-Test Only Station
25 License Number TC 223770, issued to Respondent Ahmad Mohd Mahdi, doing business as
26 Anaheim Test Only Center, is revoked or suspended, any additional license issued under the
27 chapter in the name of said licensee may be likewise revoked or suspended by the Director.

28 37. Pursuant to H & S Code section 44072.8, if Advanced Emission Specialist

1 Technician License EA 31515, issued to Ahmad Mohd Mahdi (to be redesignated upon renewal
2 as EO 31515 and/or EI 31515), is revoked or suspended, any additional license issued under the
3 chapter in the name of said licensee may be likewise revoked or suspended by the Director.

4 **PRAYER**

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

- 7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
8 223770, issued to Ahmad Mohd Mahdi, doing business as Anaheim Test Only Center;
- 9 2. Revoking or suspending Smog Check Station License Number TC 223770, issued
10 to Ahmad Mohd Mahdi, doing business as Anaheim Test Only Center;
- 11 3. Revoking or suspending Advanced Emission Specialist Technician License
12 Number EA 31515 (to be redesignated upon timely renewal as EO 31515 and/or EI 31515),
13 issued to Ahmad Mohd Mahdi;
- 14 4. Revoking or suspending any additional license issued under Chapter 5 of the
15 Health and Safety Code in the name of Ahmad Mohd Mahdi;
- 16 5. Ordering Ahmad Mohd Mahdi to pay the Bureau of Automotive Repair the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3; and,
- 19 6. Taking such other and further action as deemed necessary and proper.

20
21 DATED: December 17, 2013


22 PATRICK DORAIS
23 Chief
24 Bureau of Automotive Repair
25 Department of Consumer Affairs
26 State of California
27 *Complainant*

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