

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2520  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**

79/11-16

11 In the Matter of the Accusation Against:

Case No.

12 **AKRAM S. SEAGHAT**  
13 **dba ERICS SMOG TEST ONLY**  
14 18102 Victory Blvd., #B  
Reseda, California 91335  
15 **Automotive Repair Dealer Registration No. ARD 240241**  
**Smog Check Test Only Station License No. TC 240241**

**A C C U S A T I O N**

SMOG CHECK

16 **AKRAM S. SEAGHAT**  
17 18102 Victory Blvd., Unit B  
Reseda, California 91335  
18 **Advanced Emission Specialist Technician License No.**  
**EA 148483**

19 **FADEL CHAHO**  
20 7711 Reseda Blvd., Unit 36  
21 Reseda, California 91335  
22 **Advanced Emission Specialist Technician License No.**  
**EA 630093**

23 Respondents.

24 Sherry Mehl ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation solely in her official capacity as the Chief of  
27 the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.  
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1                   **Automotive Repair Dealer Registration No. ARD 240241**

2           2.       In or about 2005, the Bureau issued Automotive Repair Dealer Registration No.  
3 ARD 240241 ("registration") to Akram S. Seaghat ("Respondent"), doing business as Eric's Smog  
4 Test Only. The registration will expire on or about June 30, 2011, unless renewed.

5                   **Smog Check Test Only Station License No. TC 240241**

6           3.       On or about July 28, 2005, the Bureau issued Smog Check Test Only Station  
7 License No. TC 240241 ("station license") to Respondent. The license will expire on or about  
8 June 30, 2011, unless renewed.

9                   **Advanced Emission Specialist Technician License No. EA 148483**

10          4.       In or about 2004, the Bureau issued Advanced Emission Specialist Technician  
11 License No. EA 148483 to Respondent ("Respondent Seaghat"). The license will expire on or  
12 about September 30, 2012, unless renewed.

13                   **Advanced Emission Specialist Technician License No. EA 630093**

14          5.       On or about March 20, 2008, the Bureau issued Advanced Emission Specialist  
15 Technician License No. EA 630093 to Fadel Chaho ("Respondent Chaho"). The license will  
16 expire on or about October 31, 2011, unless renewed.

17                                   **STATUTORY PROVISIONS**

18          6.       Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
19 part:

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           (4) Any other conduct that constitutes fraud.

1 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more  
2 than one place of business in this state, the director pursuant to subdivision (a) shall only suspend,  
3 revoke, or place on probation the registration of the specific place of business which has violated  
4 any of the provisions of this chapter. This violation, or action by the director, shall not affect in  
5 any manner the right of the automotive repair dealer to operate his or her other places of business.

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

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

14 8. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
15 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
16 the Motor Vehicle Inspection Program.

17 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

26 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
27 expiration or suspension of a license by operation of law, or by order or decision of the  
28

1 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not  
2 deprive the Director of jurisdiction to proceed with disciplinary action.

3 11. Section 44072.8 of the Health and Safety Code states:

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

### 7 COST RECOVERY

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

### 12 FACTUAL BACKGROUND

13 13. On or about April 26, 2010, the Bureau conducted a detailed review of the Vehicle  
14 Information Database ("VID") for all smog inspections performed at Respondent's facility for the  
15 period of June 6, 2009, through November 28, 2009. The VID showed a pattern of various  
16 random diagnostic trouble codes stored in the memory of the power train control module  
17 ("PCM") on different vehicles. Vehicles 1 through 12, set forth in Table 1 below, were all  
18 certified with various pending codes stored in the PCM memory while the original equipment  
19 manufacturer ("OEM") service information shows these vehicles do not support the pending  
20 codes stored in the PCM memory. The vehicles receiving smog certificates were not tested  
21 during the OBD II<sup>1</sup> functional test and another vehicle(s) was used, constituting clean plugging<sup>2</sup>.  
22 All of the following inspections were performed by Respondent Seaghat and Respondent Chaho.

23 <sup>1</sup> The On Board Diagnostics (OBDII) functional test is an automated function of the  
24 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an  
25 interface cable from the BAR-97 analyzer to a Diagnostic Ling Connector (DLC) which is  
26 located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves  
information from the vehicle's on-board computer about the status of the readiness indicators,  
trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II  
functional test, it will fail the overall inspection.

27 <sup>2</sup> Clean plugging is the use of the OBD II readiness monitor status and stored fault code  
28 (trouble code) status of a passing vehicle for the purposes of illegally issuing a smog certificate to  
another vehicle that is not in compliance due tot a failure to complete the minimum number of

(continued...)

TABLE 1

Date and Time of Inspection	Vehicle Certified License No.	Certificate No.	Technician
1. 06/06/2009 1135 – 1146	2005 Kia Optima License No. (no plates)	NK632821C	Respondent Seaghat
2. 06/13/2009 1116 – 1130	1998 Ford E350 License No. 7U20019	NK729423C	Respondent Seaghat
3. 07/03/2009 1030 – 1039	1999 Toyota Avalon License No. 4GNJ640	NK952373C	Respondent Seaghat
4. 07/03/2009 1633 – 1642	1997 Kia Sportage License No. 3VJK532	NK952380C	Respondent Seaghat
5. 07/05/2009 1223 – 1231	2000 Ford F150 License No. (no plates)	NK952384C	Respondent Seaghat
6. 07/05/2009 1306 – 1312	2001 Infiniti I30 License No. (no plates)	NK952387C	Respondent Seaghat
7. 07/16/2009 1608 – 1614	1998 Lincoln Navigator License No. (no plates)	NM155835C	Respondent Seaghat
8. 07/17/2009 1201 – 1212	2002 Hyundai Santa Fe License No. 4XYC837	NM155838C	Respondent Seaghat
9. 07/18/2009 1501 – 1514	1999 Toyota Camry License No. 4GPU444	NM225302C	Respondent Seaghat
10. 08/15/2009 1300 – 1306	2003 Nissan Altima License No. (no plates)	NM543881C	Respondent Seaghat
11. 11/28/2009 0957 – 1010	2002 Ford F250 License No. (no plates)	NO803772C	Respondent Chaho
12. 11/28/2009 1020 – 1028	2001 Toyota Tundra License No. (no plates)	NO803773C	Respondent Chaho

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

14. Respondent's registration is subject to discipline pursuant to Code section 9884.7(a)(1), in that between June 6, 2009, and November 28, 2009, Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent certified that vehicles 1 through 12, set forth above in Table 1, had passed inspection and were in compliance with applicable laws and self test, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

1 regulations. In fact, Respondent conducted the inspections on the vehicles using the clean  
2 plugging method, in that he substituted or used a different vehicle(s) during the OBD II functional  
3 tests in order to issue smog certificates of compliance for the 12 vehicles, and did not test or  
4 inspect the 12 vehicles as required by Health and Safety Code section 44012.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 15. Respondent's registration is subject to discipline pursuant to Code section  
8 9884.7(a)(4), in that between June 6, 2009, and November 28, 2009, Respondent committed acts  
9 which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through 12,  
10 set forth above in Table 1, without performing bona fide inspections of the emission control  
11 devices and systems on those vehicles, thereby depriving the People of the State of California of  
12 the protection afforded by the Motor Vehicle Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 16. Respondent's station license is subject to discipline pursuant to Health and Safety  
16 Code section 44072.2(a), in that between June 6, 2009, and November 28, 2009, regarding  
17 vehicles 1 through 12, set forth above in Table 1, Respondent failed to comply with the following  
18 sections of that Code:

19 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
20 performed on vehicles 1 through 12, in accordance with procedures prescribed by the department.

21 b. **Section 44015:** Respondent issued electronic certificates of compliance for  
22 vehicles 1 through 12, without ensuring that the vehicles were properly tested and inspected to  
23 determine if they were in compliance with Health and Safety Code section 44012.

24 c. **Section 44059:** Respondent willfully made false entries for the electronic  
25 certificates of compliance by certifying that those vehicles had been inspected as required when,  
26 in fact, they had not.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the**  
3 **Motor Vehicle Inspection Program)**

4 17. Respondent's station license is subject to discipline pursuant to Health and Safety  
5 Code section 44072.2(c), in that between June 6, 2009, and November 28, 2009, regarding  
6 vehicles 1 through 12, set forth above in Table 1, Respondent failed to comply with provisions of  
7 California Code of Regulations, title 16, as follows:

8 a. **Section 3340.24(c)**: Respondent falsely or fraudulently issued electronic certificates of  
9 compliance for those vehicles without performing bona fide inspections of the emission control  
10 devices and systems on the vehicles as required by Health and Safety Code section 44012.

11 b. **Section 3340.35(c)**: Respondent issued electronic certificates of compliance even  
12 though those vehicles had not been inspection in accordance with section 3340.42 of that Code.

13 c. **Section 3340.42**: Respondent failed to conduct the required smog tests and inspections  
14 on those vehicle sin accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 18. Respondent's station license is subject to discipline pursuant to Health and Safety  
18 Code section 44072.2(d), in that between June 6, 2009, and November 28, 2009, regarding  
19 vehicles 1 through 12, set forth above in Table 1, Respondent committed acts involving  
20 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
21 compliance for those vehicles without performing bona fide inspections of the emission control  
22 devices and systems on the vehicles, thereby depriving the People of the State of California of the  
23 protection afforded by the Motor Vehicle Inspection Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 19. Respondent Seaghat's technician license is subject to discipline pursuant to Health  
27 and Safety Code section 44072.2(a), in that between June 6, 2009, and August 15, 2009,  
28 regarding vehicles 1 through 10, set forth above in Table 1, he failed to comply with section

1 44012 of that Code in a material respect, as follows: Respondent Seaghat failed to perform the  
2 emission control tests on those vehicles in accordance with procedures prescribed by the  
3 department.

4 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 20. Respondent Seaghat's technician license is subject to discipline pursuant to Health  
8 and Safety Code section 44072.2(c), in that between June 6, 2009, and August 15, 2009,  
9 regarding vehicles 1 through 10, set forth above in Table, he failed to comply with provisions of  
10 California Code of Regulations, title 16, as follows:

11 a. **Section 3340.24(c)**: Respondent Seaghat falsely or fraudulent issued electronic  
12 certificates of compliance without performing bona fide inspections of the emission control  
13 devices and systems on those vehicles as required by Health and Safety Code section 44012.

14 b. **Section 3340.30(a)**: Respondent Seaghat failed to inspect and test those vehicles in  
15 accordance with Health and Safety Code sections 44012.

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

18 **EIGHTH CAUSE FOR DISCIPLINE**

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

20 21. Respondent Seaghat's technician license is subject to discipline pursuant to Health  
21 and Safety Code section 44072.2(d), in that between June 6, 2009, and August 15, 2009,  
22 regarding vehicles 1 through 10, set forth above in Table 1, he committed acts involving  
23 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
24 compliance without performing bona fide inspections of the emission control devises and systems  
25 on those vehicles, thereby depriving the People of the State of California of the protection  
26 afforded by the Motor Vehicle Inspection Program.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 22. Respondent Chaho's technician license is subject to discipline pursuant to Health  
4 and Safety Code section 44072.2(a), in that on or about November 28, 2009, regarding vehicles  
5 11 and 12, set forth above in Table 1, he failed to comply with section 44012 of that Code in a  
6 material respect, as follows: Respondent Chaho failed to perform the emission control tests on  
7 those in accordance with procedures prescribed by the department.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations Pursuant to the**  
10 **Motor Vehicle Inspection Program)**

11 23. Respondent Chaho's technician license is subject to discipline pursuant to Health  
12 and Safety Code section 44072.2(c), in that on or about November 28, 2009, regarding vehicles  
13 11 and 12, set forth above in Table 1, he failed to comply with provisions of California Code of  
14 Regulations, title 16, as follows:

15 a. **Section 3340.24(c)**: Respondent Chaho falsely or fraudulent issued electronic  
16 certificates of compliance without performing bona fide inspections of the emission control  
17 devices and systems on those vehicles as required by Health and Safety Code section 44012.

18 b. **Section 3340.30(a)**: Respondent Chaho failed to inspect and test those vehicles in  
19 accordance with Health and Safety Code sections 44012.

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

22 **ELEVENTH CAUSE FOR DISCIPLINE**

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

24 24. Respondent Chaho's technician license is subject to discipline pursuant to Health and  
25 Safety Code section 44072.2(d), in that on or about November 28, 2009, regarding vehicles 11  
26 and 12, set forth above in Table 1, he committed acts involving dishonesty, fraud or deceit  
27 whereby another was injured by issuing electronic certificates of compliance without performing  
28 bona fide inspections of the emission control devices and systems on those vehicles, thereby

1 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
2 Inspection Program.

3 **OTHER MATTERS**

4 25. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on  
5 probation the registrations for all places of business operated in this state by Akram S. Seaghat,  
6 doing business as Erics Smog Test Only, upon a finding that he has, or is, engaged in a course of  
7 repeated and willful violation of the laws and regulations pertaining to an automotive repair  
8 dealer.

9 26. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
10 Station License Number TC 240241, issued to Akram S. Seaghat, doing business as Erics Smog  
11 Test Only, is revoked or suspended, any additional license issued under this chapter in the name  
12 of said licensee may be likewise revoked or suspended by the director.

13 27. Pursuant to Health and Safety Code section 44072.8, if Advanced Emission Specialist  
14 Technician License Number EA 148483, issued to Akram S. Seaghat, is revoked or suspended,  
15 any additional license issued under this chapter in the name of said licensee may be likewise  
16 revoked or suspended by the director.

17 28. Pursuant to Health and Safety Code section 44072.8, if Advanced Emission Specialist  
18 Technician License Number EA 630093, issued to Fadel Chaho, is revoked or suspended, any  
19 additional license issued under this chapter in the name of said licensee may be likewise revoked  
20 or suspended by the director.

21 **PRAYER**

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

24 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD  
25 240241, issued to Akram S. Seaghat, doing business as Erics Smog Test Only;

26 2. Revoking or suspending any other automotive repair dealer registration issued to  
27 Akram S. Seaghat;

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1           3.       Revoking or suspending Smog Check, Test Only, Station License Number TC  
2 240241, issued to Akram S. Seaghat, doing business as Erics Smog Test Only;

3           4.       Revoking or suspending Advanced Emission Specialist Technician License  
4 Number EA 148483, issued to Akram S. Seaghat;

5           5.       Revoking or suspending any additional license issued under Chapter 5 of the  
6 Health and Safety Code in the name of Akram S. Seaghat;

7           6.       Revoking or suspending Advanced Emission Specialist Technician License  
8 Number EA 630093, issued to Fadel Chaho;

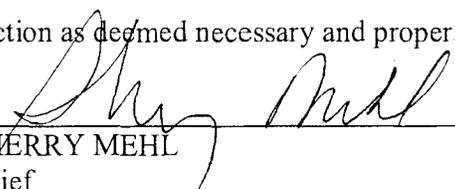
9           7.       Revoking or suspending any additional license issued under Chapter 5 of  
10 Health and Safety Code in the name of Fadel Chaho;

11          8.       Ordering Akram S. Seaghat and Fadel Chaho to pay the Director of Consumer  
12 Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code  
13 section 125.3; and,

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

15 DATED: \_\_\_\_\_

9/27/10

  
SHERRY MEHL  
Chief

Bureau of Automotive Repair I/M Smog  
Department of Consumer Affairs  
State of California  
*Complainant*

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