

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

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

AMIR SAIFULLAH SHAH dba GOLDEN STAR SMOG

2484 Olivera Road

Concord, CA 94520

Mailing Address:

2505 Bugle Way

Antioch, CA 94531

Automotive Repair Dealer Registration License No. ARD 266219

Smog Check Test Only Station License No. TC 266219

AMIR SAIFULLAH SHAH

2505 Bugle Way

Antioch, CA 94531

Smog Check Inspector License No. EO 154238,

Respondents.

Case No. 79/18-19457

In the Matter of the Citation Issued to:

AMIR S. SHAH

2505 Bugle Way

Antioch, CA 94531

Smog Check Inspector License No. EO 154238

Respondent.

Citation No. M2019-798

In the Matter of the Citations Issued to:

AMIR SAIFULLAH SHAH dba PITTSBURG SMOG

901 East 14th Street

Pittsburg, CA 94565

Automotive Repair Dealer Registration No. ARD 250761

Smog Check Test Only Station License No. TC 250761,

Respondent.

Citation No. C2019-1109

and

JOSE ALEJANDRO BONILLA

P.O. Box 1163

Oakley, CA 94561

Smog Check Inspector License No. EO 44539,

Respondent.

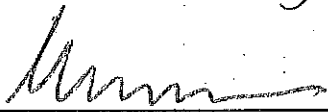
Citation No. M2019-1110

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on February 13, 2020.

DATED: Jan. 6, 2020



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
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Attorneys for Complainant

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

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

Case No. 79/18-19457,
C2019-1109, M2019-1110,
M2019-798

13 **AMIR SAIFULLAH SHAH**
14 dba **GOLDEN STAR SMOG**
2484 Olivera Road
Concord, CA 94520

**STIPULATED
SETTLEMENT AND
ORDER**

15 Mailing Address:
2505 Bugle Way
Antioch, CA 94531
16 Automotive Repair Dealer No. ARD 266219
Smog Check Test Only Station License No. TC 266219

17 **AMIR SAIFULLAH SHAH**
18 dba **PITTSBURG SMOG**
901 East 14th St.
Pittsburg CA 94565

19 Mailing Address:
20 2505 Bugle Way
Antioch, CA 94531
21 Automotive Repair Dealer No. ARD 250761
Smog Check Test Only Station License No. TC 250761

22 **AMIR S. SHAH**
23 2505 Bugle Way
Antioch, CA 94531
24 Smog Check Inspector License No. EO 154238

25 **JOSE ALEJANDO BONILLA**
26 PO BOX 1163
Oakley CA 94561
Smog Check Inspector License No. EO 44539

27 Respondents.
28

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled
2 proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney
7 General.

8 2. Respondents Amir Saifullah Shah and Jose Alejandro Bonilla (Collectively
9 Respondents) are represented in this proceeding by attorney William Ferreira.

10 3. On or about August 11, 2011, the Bureau issued Automotive Repair Dealer
11 Registration No. ARD 266219 to Amir Saifullah Shah (Respondent Shah) dba Golden Star Smog.
12 The Automotive Repair Dealer Registration will expire on August 31, 2020, unless renewed.

13 4. On or about August 25, 2011, the Bureau issued Smog Check, Test Only, Station
14 License No. TC 266219 to Respondent Shah dba Golden Star Smog. The Smog Check, Test
15 Only, Station License will expire on August 31, 2020, unless renewed.

16 5. On or about January 17, 2013, Smog Check, Test Only, Station License No. TC
17 266219 was certified as a STAR Station.

18 6. In 2007, the Bureau issued Automotive Repair Dealer Registration No. ARD 250761
19 to Respondent Shah dba Pittsburg Smog. The Automotive Repair Dealer Registration will expire
20 on April 30, 2020, unless renewed.

21 7. On or about July 26, 2007, the Bureau issued Smog Check, Test Only, Station
22 License No. TC 250761 to Respondent Shah dba Pittsburg Smog. The Smog Check, Test Only,
23 Station License will expire on April 30, 2020 unless renewed.

24 8. On or about February 1, 2013, Smog Check, Test Only, Station License No. TC
25 250761 was certified as a STAR Station.

26 9. In 2007, the Bureau of Automotive Repair issued Advanced Emission Specialist
27 Technician License Number EA154238 to Respondent Shah. The license was cancelled on June
28 4, 2013. The license was renewed pursuant to Respondent's election as a Smog Check Inspector

1 License No. EO154238, effective June 4, 2013.¹ The Smog Check Inspector License will expire
2 on March 31, 2021, unless renewed.

3 10. In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist
4 Technician License Number EA 44539 to Jose Alejandro Bonilla (Respondent Bonilla). The
5 license was cancelled on December 30, 2013. The license was renewed pursuant to Respondent's
6 election as a Smog Check Inspector License No. EO44539 and Smog Check Repair Technician
7 License No. EI44539, effective December 30, 2013. The Smog Check Inspector License will
8 expire on December 31, 2019, unless renewed. The Smog Check Repair Technician License
9 expired on December 31, 2015, and has not been renewed.

10 JURISDICTION

11 11. Accusation and Petition to Revoke Probation No. 79/18-19457 was filed before the
12 Director, and is currently pending against Respondent Shah.

13 12. The Accusation and Petition to Revoke Probation and all other statutorily required
14 documents were properly served on Respondent Shah on June 19, 2019. Respondent Shah timely
15 filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

16 13. On or about May 8, 2019, the Bureau issued Citation Nos. C2019-1109 to
17 Respondent Shah dba Pittsburg Smog pursuant to its authority under California Health and Safety
18 Code section 44050.

19 14. On May 8, 2019, the Bureau issued Citation Nos. M2019-1110 to Respondent Bonilla
20 pursuant to its authority under California Health and Safety Code section 44050.

21 15. On or about February 13, 2019, the Bureau issued Citation Nos. M2019-798 to
22 Respondent Shah pursuant to its authority under California Health and Safety Code section
23 44050.

24 16. A copy of Accusation and Petition to Revoke Probation No. 79/18-19457 is attached
25 as exhibit A and incorporated herein by reference. A copy of Citation No. C2019-1109 is

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

1 attached as exhibit B and incorporated herein by reference. A copy of Citation No. M2019-1110
2 is attached as exhibit C and incorporated herein by reference. A copy of Citation No. M2019-798
3 is attached as exhibit D and incorporated herein by reference.

4 **PRIOR DISCIPLINARY ACTION**

5 17. In a disciplinary action entitled "In the Matter of the Accusation Against: Amir
6 Saifullah Shah, dba Golden Star Smog," Case No. 79/16-7674, the Bureau of Automotive Repair
7 issued a Decision and Order effective December 29, 2017, in which Respondent's Automotive
8 Repair Dealer Registration and Smog Check Station License were revoked. However, the
9 revocations were stayed and Respondent's Automotive Repair Dealer Registration and Smog
10 Check Station License were placed on probation for two (2) years with certain terms and
11 conditions. A copy of that Decision and Order is attached as Exhibit E and is incorporated by
12 reference.

13 **ADVISEMENT AND WAIVERS**

14 18. Respondents have carefully read, fully discussed with counsel, and understand the
15 charges and allegations in Accusation and Petition to Revoke Probation No. 79/18-19457 and
16 Citation Nos. C2019-1109, M2019-1110, and M2019-798. Respondents have also carefully read,
17 fully discussed with counsel, and understand the effects of this Stipulated Settlement and Order.

18 19. Respondent Shah is aware and agrees that once the decision in the Matter of the
19 Accusation and Petition to Revoke Probation No. 79/18-19457 becomes final and non-appealable
20 pursuant to the order below, cause will exist to invalidate both of Respondent Shah's STAR
21 Certifications pursuant to California Code of Regulations, Title 16, section 3392.5.1, subdivision
22 (a)(1).

23 20. Respondents are fully aware of their legal rights in this matter, including the right to a
24 hearing on the charges and allegations in the Accusation and Petition to Revoke Probation; the
25 right to confront and cross-examine the witnesses against them; the right to present evidence and
26 to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of
27 witnesses and the production of documents; the right to reconsideration and court review of an
28

1 adverse decision; and all other rights accorded by the California Administrative Procedure Act
2 and other applicable laws.

3 21. Respondents voluntarily, knowingly, and intelligently waive and give up each and
4 every right set forth above.

5 CULPABILITY

6 22. Respondents admit the truth of each and every charge and allegation in Accusation
7 and Petition to Revoke Probation No. 79/18-19457 and Citation Nos. C2019-1109, M2019-1110,
8 and M2019-798.

9 23. Respondent Shah agrees that both of his Automotive Repair Dealer Registrations are
10 subject to discipline and he agrees to be bound by the Director's probationary terms as set forth in
11 the Orders below.

12 24. Respondent Shah agrees that both of his Smog Check Station Licenses are subject to
13 discipline and he agrees to be bound by the Director's probationary terms as set forth in the
14 Orders below.

15 25. Respondent Shah is aware and agrees that once the probation order imposing
16 discipline on his Automotive Repair Dealer Registrations and Smog Check Station Licenses
17 become final and non-appealable pursuant to the order below, cause will exist to invalidate both
18 of Respondent Shah's STAR Certifications pursuant to California Code of Regulations, Title 16,
19 section 3392.5.1, subdivision (a)(1).

20 26. Respondents are aware and agree that, on the effective date of the Bureau's decision
21 and order, Citation Nos. C2019-1109, M2019-1110, and M2019-798 will become final and non-
22 appealable.

23 27. Respondent Shah is aware and agrees that once Citation Nos. C2019-1109, M2019-
24 1110, and M2019-798 become final and non-appealable pursuant to the order below, cause will
25 exist to invalidate both of Respondent Shah's STAR Certifications pursuant to California Code of
26 Regulations, Title 16, section 3392.5.1, subdivision (a)(1).

27 28. Respondent Shah is aware and agrees that this stipulation allows the Department of
28 Consumer Affairs to issue the order below, temporarily invalidating its STAR Certification.

1 36. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Director may, without further notice or formal proceeding, issue and enter the following
3 Orders:

4 **DISCIPLINARY ORDERS**

5 37. IT IS HEREBY ORDERED that the probation imposed December 29, 2017, in the
6 case entitled "In the Matter of the Accusation Against: Amir Saifullah Shah, dba Golden Star
7 Smog," Case No. 79/16-7674, shall be extended for an additional two years on the same terms
8 and conditions. The probationary period that began on or about December 29, 2017, and was
9 scheduled to end on or about December 29, 2019, will therefore now end on or about December
10 29, 2021, assuming there are no intervening circumstances extending it such as, for example,
11 tolling.

12 38. IT IS HEREBY ORDERED that Respondent Shah shall pay the Bureau of
13 Automotive Repair \$3,000 for the reasonable costs of the investigation and enforcement of case
14 No. 79/18-19457. This amount shall be due within six months of the effective date of the
15 decision and order. These costs shall be in addition to any costs remaining from the probationary
16 order in Case No. 79/16-7674.

17 39. IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD
18 250761 and Smog Check, Test Only, Station License No. TC 250761, issued to Respondent Amir
19 Saifullah Shah dba Pittsburg Smog are hereby revoked. However, the revocations are stayed and
20 Respondent Shah is placed on probation for the same duration and under the same terms and
21 conditions as the discipline imposed on Amir Saifullah Shah dba Golden Star Smog ARD 266219
22 and Smog Check, Test Only, Station License No. TC 266219.

23 **FURTHER ORDERS**

24 **IT IS HEREBY FURTHER ORDERED:**

25 40. Respondent Shah's appeal of Citation No. C2019-1109 and request for an
26 administrative hearing is deemed withdrawn and any further appeal or request for reconsideration
27 is waived.

28 41. Citation No. C2019-1109 is affirmed.

1 42. Citation No. C2019-1109 is final and non-appealable as of the effective date of this
2 decision.

3 **IT IS HEREBY FURTHER ORDERED:**

4 43. Respondent Bonilla's appeal of Citation No. M2019-1110 and request for an
5 administrative hearing is deemed withdrawn and any further appeal or request for reconsideration
6 is waived.

7 44. Citation No. C2019-1110 is affirmed.

8 45. Citation No. C2019-1110 is final and non-appealable as of the effective date of this
9 decision.

10 **IT IS HEREBY FURTHER ORDERED:**

11 46. Respondent Shah's appeal of Citation No. M2019-798 and request for an
12 administrative hearing is deemed withdrawn and any further appeal or request for reconsideration
13 is waived.

14 47. Citation No. M2019-798 is affirmed.

15 48. Citation No. M2019-798 is final and non-appealable as of the effective date of this
16 decision.

17 **IT IS HEREBY FURTHER ORDERED:** The STAR Certifications of Station License No. TC
18 266219 and Station License No. TC 250761, both issued to Respondent Shah, are hereby
19 invalidated under the following terms and conditions:

20 49. Invalidation. Respondent Shah's STAR certifications shall be temporarily invalidated
21 for a period of 30 consecutive days beginning on the effective date of the Decision and Order.
22 During the period of invalidation, Respondent Shah shall cease advertising as a STAR station and
23 shall cover or remove all STAR signage. During the period of invalidation, Respondent Shah
24 shall not perform any repairs under the Consumer Assistance Program.

25 50. Automatic Reinstatement. Upon successful completion of the 30-day invalidation,
26 Respondent Shah's STAR Certifications shall be fully restored without reapplication for a STAR
27 certification.

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1 51. Violation of Order. If Respondent Shah violates any term or condition of this Order,
2 then the violation shall constitute cause to discipline Respondent Shah's Smog Check Station
3 License, Automotive Repair Dealer Registration, and any other Bureau issued licenses or
4 registrations.

5 **IT IS HEREBY FURTHER ORDERED:**

6 52. Other than as set forth above in paragraph 49, above, Citation M0219-798 issued to
7 Respondent Jose Alejandro Bonilla shall not be further cause for STAR Certification invalidation
8 at any station at which Respondent Jose Alejandro Bonilla is now employed or may be employed
9 in the future.

10 **ACCEPTANCE**

11 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
12 with my attorney William Ferreira. I understand the stipulation and the effect it will have on my
13 Automotive Repair Dealer Registrations, and Smog Check Station Licenses, Smog Check
14 Inspector License, Smog Check Repair Technician License and STAR Station Certificates. I enter
15 into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to
16 be bound by the Decision and Order of the Director of Consumer Affairs.

17
18 DATED: 9-30-19


AMIR SAIFULLAH SHAH
Respondent

21 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
22 with my attorney William Ferreira. I understand the stipulation and the effect it will have on my
23 Smog Check Inspector License and Smog Check Repair Technician License. I enter into this
24 Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound
25 by the Decision and Order of the Director of Consumer Affairs.

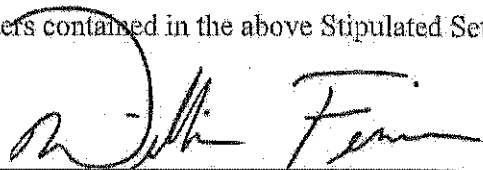
26 DATED: 9/30/19


JOSE ALEJANDRO BONILLA
Respondent

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I have read and fully discussed with Respondents Amir Saifullah Shah and Jose Alejandro Bonilla the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED: _____



WILLIAM FERREIRA
Attorney for Respondents

ENDORSEMENT

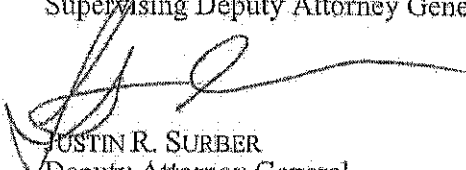
The foregoing Stipulated Settlement and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs:

DATED: _____

10/9/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
CHAR SACHSON
Supervising Deputy Attorney General



JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

SF201920039

Exhibit A

Accusation and Petition to Revoke Probation No. 79/18-19457,

1 XAVIER BECERRA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
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**
12

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

15 **AMIR SAIFULLAH SHAH**
dba GOLDEN STAR SMOG
16 2484 Olivera Road
Concord, CA 94520
17

18 Mailing Address:
2505 Bugle Way
Antioch, CA 94531
19

20 Automotive Repair Dealer No. ARD 266219
Smog Check Test Only Station License No. TC 266219

21 **AMIR SAIFULLAH SHAH**
2505 Bugle Way
22 Antioch, CA 94531

23 Smog Check Inspector License No. EO 154238

24 Respondent.
25

26 Complainant alleges:

27 ///

28 ///

Case No. 7918-19457

**ACCUSATION AND
PETITION TO REVOKE
PROBATION**

PARTIES

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

5 2. On or about August 11, 2011, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 266219 to Amir Saifullah Shah (Respondent) dba
7 Golden Star Smog. The Automotive Repair Dealer Registration was in full force and effect at all
8 times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

9 3. On or about August 25, 2011, the Bureau of Automotive Repair issued Smog Check,
10 Test Only, Station License Number TC 266219 to Respondent. The Smog Check, Test Only,
11 Station License will expire on August 31, 2019, unless renewed.

12 4. In 2007, the Bureau of Automotive Repair issued Advanced Emission Specialist
13 Technician License Number EA 154238 to Respondent. The license was cancelled on June 4,
14 2013. Thereafter the license was renewed pursuant to Respondent's election as a Smog Check
15 Inspector License No. EO 154238, effective June 4, 2013.¹ The Smog Check Inspector License
16 was in full force and effect at all times relevant to the charges brought herein and will expire on
17 May 31, 2019, unless renewed.

18 5. In a disciplinary action entitled "In the Matter of the Accusation Against: Amir
19 Saifullah Shah, dba Golden Star Smog," Case No. 79/16-7674, the Bureau of Automotive Repair
20 issued a Decision and Order effective December 29, 2017, in which Respondent's Automotive
21 Repair Dealer Registration and Smog Check Stations License were revoked. However, the
22 revocations were stayed and Respondent's Automotive Repair Dealer Registration and Smog
23 Check Stations License were placed on probation for two (2) years with certain terms and
24 conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by
25 reference.

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

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9. Section 9884.8 of the Code states:

"All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer."

10. Section 9884.9 of the Code states:

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

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

3 “(2) Upon completion of the repairs, obtain the customer’s signature or initials to an
4 acknowledgment of notice and consent, if there is an oral consent of the customer to additional
5 repairs, in the following language:

6 “I acknowledge notice and oral approval of an increase in the original estimated price.

7
8 _____

8 (signature or initials)”

9 Nothing in this section shall be construed as requiring an automotive repair dealer to give a
10 written estimated price if the dealer does not agree to perform the requested repair.

11 ...”

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

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

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

20 “The test at the smog check stations shall be performed in accordance with procedures
21 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
22 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
23 and shall ensure all of the following:

24 ...”

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

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..."

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

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

"(1) A vehicle that has been tampered with.

...

"(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.

..."

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

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

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

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

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

...

"(e) Violates any of the regulations adopted by the director pursuant to this chapter,

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

...

"(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed."

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

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

6 “...”

7 22. California Code of Regulations, title 16, section 3340.45, states:

8 “(a) All Smog Check inspections shall be performed in accordance with requirements and
9 procedures prescribed in the following:

10 “... ”

11 “(2) Smog Check Manual, dated November 2, 2017, which is hereby incorporated by
12 reference. This manual shall become effective on August 2, 2018.”

13 23. California Code of Regulations, title 16, section 3353, states:

14 “No work for compensation shall be commenced and no charges shall accrue without
15 specific authorization from the customer in accordance with the following requirements:

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

18 “...”

19 24. California Code of Regulations, title 16, section 3371, states:

20 “No dealer shall publish, utter, or make or cause to be published, uttered, or made any false
21 or misleading statement or advertisement which is known to be false or misleading, or which by
22 the exercise of reasonable care should be known to be false or misleading. Advertisements and
23 advertising signs shall clearly show the following:

24 “(a) Firm Name and Address. The dealer’s firm name and address as they appear on the
25 State registration certificate as an automotive repair dealer; and

26 “(b) Telephone Number. If a telephone number appears in an advertisement or on an
27 advertising sign, this number shall be the same number as that listed for the dealer’s firm name
28

1 and address in the telephone directory, or in the telephone company records if such number is
2 assigned to the dealer subsequent to the publication of such telephone directory.”

3 25. California Code of Regulations, title 16, section 3373, states:

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

9 COSTS

10 26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 FACTUAL BACKGROUND

17 27. On or about October 30, 2018 through November 1, 2018, a Bureau Representative
18 prepared a 2002 Dodge (Dodge) to fail a smog inspection due to the removal of the Positive
19 Crankcase Ventilation (PCV) valve and hose assembly. The Bureau Representative installed a
20 non-approved open breather element in place of the PCV valve and large vacuum cap on the PCV
21 valve intake manifold vacuum supply port. In this condition the Dodge would not pass a properly
22 performed smog inspection. The Dodge would fail the visual portion of the smog inspection.

23 28. On or about November 15, 2018, an undercover operation was performed at
24 Respondent's smog check station to confirm compliance with the Smog Check Program. An
25 operator drove the Dodge to Golden Star Smog and requested a smog inspection from
26 Respondent.

27 29. Respondent pulled the Dodge into a service bay and performed a smog inspection.
28 The operator was not given a written estimate prior to the smog inspection. A few minutes later

1 Respondent came into the waiting area and told the operator that the vehicle was ready. The
2 operator was given two copies of an invoice and a Vehicle Inspection Report (VIR). The vehicle
3 passed the smog inspection.

4 30. Smog Certificate of Compliance # HX399721C was issued for the Dodge by
5 Respondent. Respondent entered "Pass" into the OIS for the Visual Inspection category
6 "Crankcase Emission Controls," when in fact Respondent should have entered "Tampered"
7 because the Dodge had been tampered with. The VIR stated "Pass" for the Visual Inspection
8 category "Crankcase Emission Controls." Respondent signed the VIR under penalty of perjury.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (False or misleading Statements)

11 31. Respondent has subjected his Automotive Repair Dealer Registration to disciplinary
12 action under section 9884.7, subdivision(a)(1), in that Respondent made false or misleading
13 statements that he knew or should have known were false or misleading as follows:

14 a. Respondent transmitted information to the Vehicle Information Database stating the
15 Dodge had properly installed Crankcase Emission Controls.

16 b. Respondent created a VIR stating the Dodge had properly installed Crankcase
17 Emission Controls.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Violation of Laws and Regulations)

20 32. Respondent has subjected his Automotive Repair Dealer Registration to disciplinary
21 action under section 9884.7, subdivision (a)(6), in that Respondent violated the following laws
22 and regulations:

23 a. Respondent violated Code section 9884.9(a) by failing to provide the operator with a
24 written estimate prior to performing the smog inspection.

25 b. Respondent violated California Code of Regulations, Title 16, section 3340.24,
26 subdivision (c), in that Respondent falsely issued a certificate of compliance to the Dodge.
27
28

1 c. Respondent violated California Code of Regulations, Title 16, section 3340.35,
2 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
3 have all the required emission control equipment and devices installed and functioning correctly.

4 d. Respondent violated California Code of Regulations, Title 16, section 3340.42,
5 subdivision (b) in that Respondent failed to provide a proper visual inspection of the Dodge.

6 e. Respondent violated California Code of Regulations, Title 16, section 3340.42, in
7 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
8 that Respondent failed to provide a proper visual inspection on the Dodge as prescribed in the
9 Smog Check Manual.

10 f. Respondent violated California Code of Regulations, Title 16, section 3353, in that
11 Respondent failed to provide the operator with a written estimate.

12 g. Respondent violated California Code of Regulations, Title 16, section 3371, in that
13 Respondent made untrue or misleading statements as described in paragraph 25, above.

14 h. Respondent violated California Code of Regulations, Title 16, section 3373, in that
15 Respondent made untrue or misleading statements on a Vehicle Inspection Report. The Vehicle
16 Inspection Report stated that the vehicle passed the Crankcase Emission Controls visual
17 inspection.

18 THIRD CAUSE FOR DISCIPLINE

19 (Dishonest or Deceit)

20 33. Respondent has subjected his Smog Check Station License to disciplinary action
21 under Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed
22 acts involving dishonesty or deceit whereby another was injured. The circumstances are
23 described in paragraphs 27-31, above.

24 FOURTH CAUSE FOR DISCIPLINE

25 (Violation of Laws and Regulations)

26 34. Respondent has subjected his Smog Check Station License to disciplinary action
27 under Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that
28 Respondent violated the following laws and regulations:

1 a. Respondent violated Health and Safety code section 44012, subdivision (f), in the
2 Respondent failed to perform a smog check on the Dodge according to the procedures prescribed
3 by the department. Respondent failed to perform a proper visual inspection.

4 b. Respondent violated Health and Safety code section 44015, subdivision (a)(1), in that
5 Respondent issued a certificate of compliance to a vehicle that had been tampered with.

6 c. Respondent violated California Code of Regulations, Title 16, section 3340.24,
7 subdivision (c), in that Respondent falsely issued a certificate of compliance to the Dodge.

8 d. Respondent violated California Code of Regulations, Title 16, section 3340.35,
9 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
10 have all the required emission control equipment and devices installed and functioning correctly.

11 e. Respondent violated California Code of Regulations, Title 16, section 3340.42,
12 subdivision (b) in that Respondent failed to perform a proper visual inspection of the Dodge.

13 f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in
14 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
15 that Respondent failed to perform a proper visual inspection on the Dodge as prescribed in the
16 Smog Check Manual.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 (Dishonesty or Deceit)

19 35. Respondent has subjected his Smog Check Inspector License to disciplinary action
20 under Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed
21 acts involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
22 described in paragraphs 27-31, above.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 (Violation of Laws and Regulations)

25 36. Respondent has subjected his Smog Check Inspector License to disciplinary action
26 under Health and Safety Code section 44072.2, subdivision(s) (a), (c) and/or (g), in that
27 Respondent violated the following laws and regulations:

28 ///

1 a. Respondent violated Health and Safety code section 44012, subdivision (f), in that
2 Respondent failed to perform a smog check on the Dodge according to the procedures prescribed
3 by the department. Respondent failed to perform a proper visual inspection.

4 b. Respondent violated Health and Safety code section 44032 by failing to perform a
5 smog inspection on the Dodge pursuant to Health and Safety code section 44012.

6 c. Respondent violated California Code of Regulations, Title 16, section 3340.24,
7 subdivision (c), in that Respondent falsely caused a certificate of compliance to be issued to the
8 Dodge.

9 d. Respondent violated California Code of Regulations, Title 16, section 3340.35,
10 subdivision (c), in that Respondent issued a certificate of compliance to a vehicle that did not
11 have all the required emission control equipment and devices installed and functioning correctly.

12 e. Respondent violated California Code of Regulations, Title 16, section 3340.42,
13 subdivision (b) in that Respondent failed to provide a proper visual inspection of the Dodge.

14 f. Respondent violated California Code of Regulations, Title 16, section 3340.42 in
15 conjunction with California Code of Regulations, Title 16, section 3340.45, subdivision (b), in
16 that Respondent failed to provide a proper visual inspection on the Dodge as proscribed in the
17 Smog Check Manual.

18 **ADDITIONAL JURISDICTION FOR PETITION TO REVOKE PROBATION**

19 37. The Petition to Revoke Probation is brought before the Director for the Bureau of
20 Automotive Repair under Probation Terms and Conditions "A" and "F" of the Decision and
21 Order In the Matter of The Accusation Against Amir Saifullah Shah dba Golden Star Smog, Case
22 No. 79/16-7674. Term and condition "A" states:

23 "A. Obey All Laws

24 "During the period of probation, respondent Shah shall comply with all federal and state
25 statutes, regulations, and rules governing all Bureau registrations and licenses he holds."

26 38. Term and condition "F" states:

27 "F. Violation of Probation

28

1 "If respondent Shah violates or fails to comply with the terms and conditions of probation
2 in any respect, the Director, after giving notice and opportunity to be heard, may set aside the stay
3 order and carry out the disciplinary order provided in this decision. Once respondent Shah
4 receives notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction,
5 and the period of probation shall be extended until final resolution of the matter."

6 CAUSE TO REVOKE PROBATION

7 (Violation of Laws and Regulations)

8 39. Respondent's probation is subject to revocation pursuant to probation term "F"
9 because Respondent failed to comply with probation term "A," referenced above. Respondent
10 failed obey all laws as described in paragraphs 31-36, above.

11 OTHER MATTERS

12 40. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
13 or place on probation the registration for all places of business operated in this state by
14 Respondent, upon a finding that Respondent has, or is, engaged in a course of repeated and
15 willful violations of the laws and regulations pertaining to an automotive repair dealer.

16 41. Pursuant to Health & Safety Code section 44072.8, if Respondent's Smog Check
17 Station License or Smog Check Inspector License is revoked or suspended, any additional license
18 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said
19 licensee may be likewise revoked or suspended by the director.

20 PRAAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
22 Accusation and Petition to Revoke Probation, and that following the hearing, the Director of
23 Consumer Affairs issue a decision:

24 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
25 No. 79/16-7674 and imposing the disciplinary order that was stayed thereby revoking Automotive
26 Repair Dealer Registration No. ARD 266219 issued to Amir Saifullah Shah;

1 2. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
2 No. 79/16-7674 and imposing the disciplinary order that was stayed thereby revoking Smog
3 Check, Test Only, Station License No. TC 266219, issued to Amir Saifullah Shah;

4 3. Revoking or suspending Automotive Repair Dealer Registration No. ARD 266219,
5 issued to Amir Saifullah Shah;

6 4. Revoking or suspending Smog Check, Test Only, Station License No. TC 266219,
7 issued to Amir Saifullah Shah.

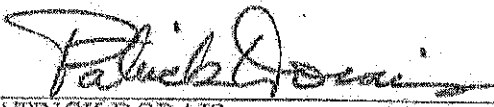
8 5. Revoking or suspending Smog Check Inspector License No. EO 154238, issued to
9 Amir Saifullah Shah.

10 6. Revoking or suspending any additional Automotive Repair Dealer Registration, Smog
11 Check Station license, Smog Check Inspector license, and/or Smog Check Repair Technician
12 license issued to Amir Saifullah Shah;

13 7. Ordering Amir Saifullah Shah and Amir Saifullah Shah to pay the Director of
14 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
15 to Business and Professions Code section 125.3; and

16 8. Taking such other and further action as deemed necessary and proper.

17
18
19
20 DATED: *May 29, 2019*


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

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Exhibit B

Citation C2019-1109



Bureau of Automotive Repair

Enforcement Operations Branch
10949 North Mather Boulevard, Rancho Cordova, CA 95870
P (916) 403-8060 F (916) 464-3417 www.bar.ca.gov



Citation No: C2019-1109

Date: 5/8/2019
Owner: AMIR SAIFULLAH SHAH
DBA: PITTSBURG SMOG
BAR#: ARD250761 / TC250761
Address: 901 EAST 14TH STREET, PITTSBURG, CA 94565

CITATION

You are hereby notified that you are in violation Sections 44012 of the Health and Safety Code. In accordance with Section 44050 of the Health and Safety Code, the penalty for violating 44012 of the Health and Safety Code shall be \$1000

\$1000

CAUSE FOR CITATION

On 4/11/2019, you issued Certificate of Compliance #QQ579098C to a Bureau of Automotive Repair undercover vehicle with an unapproved aftermarket performance device.

NOTE: Failure to comply with this Citation may be grounds for revocation of your license.

Bureau of Automotive Repair

[Signature]

Date:

5/8/2019

Exhibit C

Citation No. M2019-1110



ENFORCEMENT OPERATIONS BRANCH
 10949 North Mather Boulevard, Rancho Cordova, CA 95670
 P (916) 403-8060 F (916) 464-2879 | www.bar.ca.gov



Citation No: M2019-1110

Date: 5/8/2019
 Smog Technician: JOSE ALEJANDRO BONILLA
 Tech License #: EO 44539
 Address: PO Box 1163, Oakley, CA 94561

CITATION

You are hereby notified that you are in violation of Section 44032 of the Health and Safety Code. In accordance with Sections 44050 of the Health and Safety Code, you are hereby directed to complete an 8-HOUR BAR CERTIFIED SMOG CHECK CITATION TRAINING COURSE. The BAR certified smog check citation training course must be scheduled within 30 days and completed in 60 days from the date of the Citation Service Conference, with proof of completion submitted to BAR within 60 days after the Citation Service Conference.

8-Hour BAR Certified Smog Check Citation Training Course

CAUSE FOR CITATION

On 4/11/2019, you issued Certificate of Compliance #QQ579098C to a Bureau of Automotive Repair undercover vehicle with an unapproved aftermarket performance device.

NOTE: Failure to comply with this Citation and Order of Abatement may be grounds for revocation of your license.

Bureau of Automotive Repair	Date:
<i>[Signature]</i>	5/8/2019



ENFORCEMENT OPERATIONS BRANCH
10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (916) 403-8060 F (916) 464-2879 | www.bar.ca.gov



Order of Abatement

Technician Name: JOSE ALEJANDRO BONILLA

Technician License number: EO 44539

The Bureau hereby orders you to immediately cease and desist from violating Health & Safety Code section 44032.

44032 Health & Safety Code: 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.

You are ordered to attend an 8 hour BAR certified retraining course to satisfy this Citation and Order of Abatement. The 8 hour BAR certified smog check citation training course must be scheduled within 30 days and completed in 60 days from the date of the Citation Service Conference, with proof of completion submitted to the address listed below. Pursuant to 44050 (e) of the Health and Safety Code, "Failure to comply with an Order of Abatement or payment of an administrative fine issued by the department pursuant to this section is grounds for suspension or revocation of the license or placing the license on probation."; and California Code of Regulations 3340.31 (b). "Failure by a licensed technician to complete retraining when required by the department shall be grounds for revocation or suspension of a smog check technician's license, pursuant to section 44045.6 of the Health and Safety Code."

Bureau of Automotive Repair
Enforcement Operations Branch
10949 North Mather Blvd
Rancho Cordova, CA 95670

Exhibit D

Citation No. M2019-798



DEPARTMENT OF CONSUMER AFFAIRS
 HOUSEHOLD GOODS, HOME SERVICES, AND UTILITIES AGENCY
ENFORCEMENT OPERATIONS BRANCH
 10949 North Mather Boulevard, Rancho Cordova, CA 95670
 P (916) 403-8060 F (916) 464-2879 | www.bar.ca.gov



Citation No: M2019-798

Date: 2/13/2019
 Smog Technician: AMIR S SHAH
 Tech License #: EO 154238
 Address: 2505 BUGLE WAY, ANTIOCH, CA 94531

CITATION

You are hereby notified that you are in violation of Section 44032 of the Health and Safety Code. In accordance with Sections 44050 of the Health and Safety Code, you are hereby directed to complete an 8-HOUR BAR CERTIFIED SMOG CHECK CITATION TRAINING COURSE. The BAR certified smog check citation training course must be scheduled within 30 days and completed in 60 days from the date of the Citation Service Conference, with proof of completion submitted to BAR within 60 days after the Citation Service Conference.

8-Hour BAR Certified Smog Check Citation Training Course

CAUSE FOR CITATION

On 11/15/2018, you issued Certificate of Compliance #HX399721C to a Bureau of Automotive Repair undercover vehicle with a missing or modified Positive Crankcase Ventilation (PCV) System.

NOTE: Failure to comply with this Citation and Order of Abatement may be grounds for revocation of your license.

Bureau of Automotive Repair 	Date: 2/13/2019
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BUSINESS OPERATIONS DIVISION
ENFORCEMENT OPERATIONS BRANCH
10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (916) 403-8060 F (916) 464-2879 I www.bar.ca.gov



Order of Abatement

Technician Name: AMIR S SHAH

Technician License number: EQ 154238

The Bureau hereby orders you to immediately cease and desist from violating Health & Safety Code section 44032.

44032 Health & Safety Code: 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.

You are ordered to attend an 8-hour BAR certified retraining course to satisfy this Citation and Order of Abatement. The 8-hour BAR certified smog check citation training course must be scheduled within 30 days and completed in 60 days from the date of the Citation Service Conference, with proof of completion submitted to the address listed below. Pursuant to 44050 (e) of the Health and Safety Code, "Failure to comply with an Order of Abatement or payment of an administrative fine issued by the department pursuant to this section is grounds for suspension or revocation of the license or placing the license on probation," and California Code of Regulations 3340.31 (b), "Failure by a licensed technician to complete retraining when required by the department shall be grounds for revocation or suspension of a smog check technician's license, pursuant to section 44045.6 of the Health and Safety Code."

Bureau of Automotive Repair
Enforcement Operations Branch
10949 North Mather Blvd
Rancho Cordova, CA 95670

Exhibit E

**Decision and Order "In the Matter of the Accusation Against: Amir Saifullah Shah, dba
Golden Star Smog," Case No. 79/16-7674**

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AMIR SAIFULLAH SHAH, doing business as
GOLDEN STAR SMOG,

Automotive Repair Dealer Registration No.
ARD 266219
Smog Check Test Only Station License No.
TC 266219

and

YUSUF RAYHAT KHALID HUSSAIN,

Smog Check Inspector License No.
EO 634973

Respondents.

Case No. 79/16-7674

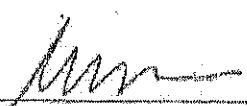
OAH No. 2017041237

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective December 29, 2017

DATED: 11/17/17


GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

BEFORE THE
BUREAU OF AUTOMOTIVE REPAIR
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AMIR SAIFULLAH SHAH,¹ doing business
as GOLDEN STAR SMOG,

Automotive Repair Dealer Registration
No. ARD266219
Smog Check Test Only Station License
No. TC266219

and

YUSUF RAYHAT KHALID HUSSAIN,
Smog Check Inspector License
No. EO634973

Respondents.

Case No. 79/16-7674

OAH No. 2017041237

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 22, 2017, in Oakland, California.

Deputy Attorney General Justin R. Surber represented petitioner Patrick Dorals, the Chief of the Bureau of Automotive Repair.

Attorney at Law William D. Ferreira represented respondent Amir Saifullah Shah, who was present at the hearing.

No one appeared for respondent Yusuf Raybat Khalid Hussain.

The matter was submitted for decision on August 22, 2017.

¹ The accusation in this matter gives this respondent's surname as "Shan." The parties stipulated at the hearing that his correct surname is "Shah."

FACTUAL FINDINGS

1. On August 11, 2011, the Bureau of Automotive Repair registered respondent Amir Saifullah Shah, doing business as Golden Star Smog, as an automotive repair dealer (Registration No. ARD266219). On August 25, 2011, the Bureau also licensed respondent Shah, again doing business as Golden Star Smog, as a smog check test only station (License No. TC266219). This registration and license will expire August 31, 2017, unless renewed.

2. The Bureau certified Golden Star Smog as a STAR Station, effective January 17, 2013. This STAR Station certification will remain active as long as the automotive repair dealer registration and smog check test only station license remain active, unless the Bureau earlier invalidates the STAR Station certification.

3. Respondent Shah also holds a license as a smog check inspector (License No. EO154238), and has held this or a similar license since 2007. Respondent Shah's smog check inspector license will expire March 31, 2019.

4. On December 30, 2016, acting in his official capacity as Chief of the Bureau, complainant Patrick Dorris served the accusation initiating this matter. The accusation seeks discipline against Shah's automotive repair dealer registration and smog check test only station license, against Shah's smog check inspector license, and against a smog check inspector license allegedly held by respondent Yusuf Rayhat Khalid Hussain; it seeks this discipline on the ground that Hussain, while working for Shah at Golden Star Smog, caused Golden Star Smog to issue certificates of compliance for smog inspections that Hussain had not actually performed. Respondent Shah requested a hearing.

5. Respondent Hussain did not request a hearing on the accusation. The Bureau has resolved the accusation with respect to him in a separate decision and order.

Basis for Discipline

6. Licensed smog check stations perform Bureau-regulated smog inspections in part using computerized devices that deliver test results directly to the Bureau. The Bureau's inspection and audit protocols permit the Bureau to verify whether each computerized inspection result the Bureau receives really is from the vehicle that the smog inspector has purported to inspect.

7. Between March 26 and April 29, 2016, Hussain caused Golden Star Smog to issue certificates of compliance for 10 vehicles for which Hussain had substituted different vehicles during the computerized portion of the smog inspection.

Additional Evidence

8. Shah has owned Golden Star Smog since 2011. Shah also has owned another smog check station, Pittsburg Smog, for about 10 years.

9. Between Pittsburg Smog and Golden Star Smog, Shah has employed about seven smog check inspectors over the 10 years he has been in the smog inspection business. Aside from the accusation in this matter, the Bureau has never threatened or imposed discipline against Shah or any of the inspectors working for him at these two businesses.

10. During March, April, and May 2016, Shah employed Hussain to perform smog inspections at Golden Star Smog only on Fridays and Saturdays. Shah employed Hussain because Shah had other commitments on Fridays and Saturdays and could not personally be present at the business. Shah was not present during any of the 10 inspections at issue in this matter.

11. Shah stopped asking Hussain to work on Fridays and Saturdays in part because Shah grew to mistrust Hussain.

12. At the time of the hearing, Shah was the only smog check inspector conducting smog inspections at Golden Star Smog.

13. The evidence did not establish that the Bureau has received any additional test results from Golden Star Smog suggesting smog inspection fraud since April 29, 2016.

14. The Bureau notified Shah in November 2016 that it suspected Hussain to have caused Golden Star Smog to issue certificates of compliance misrepresenting the vehicles Hussain had inspected. The evidence did not establish that Shah had any reason to know before receiving this notice that Hussain had reported false inspection results to the Bureau.

15. Before learning about Hussain's misrepresentations, Shah reviewed his employees' inspection work regularly by matching each day's invoices against the tests the smog inspection devices reported as having been performed that day.

16. After learning about Hussain's misrepresentations, Shah installed a security camera at Golden Star Smog that is capable of recording an image of each vehicle that enters the inspection bay. If he employs any other inspectors at Golden Star Smog, Shah's intention is to use the camera to audit their work, by comparing a sample of invoices against the recordings to confirm that the vehicle listed on each invoice actually is the vehicle that was in the inspection bay for that inspection.

17. Shah recognizes that visual confirmation from the security camera cannot prevent or reveal inspection errors that do not involve physical substitution of one vehicle for another. He also has prepared written guidelines for his smog inspection employees reminding them of their obligation to conduct inspections without misrepresentation and cautioning them that violation of Bureau smog inspection regulations will be grounds for immediate termination of their employment. His inspectors at Pittsburg Smog have signed copies of these guidelines to acknowledge their commitment to following these rules, and Shah intends to have any new inspectors at Golden Star Smog sign them as well.

18. For several years, Shah coached and managed a minor-league professional football team. Many of the players were high school graduates who had attended little or no college, and Shah used his position as an opportunity to mentor them as they assumed adult responsibilities and found employment.

19. Shah provided numerous reference letters from writers who know him through business, through community service, and through religious activities. All of these letters praised Shah's honesty, his personal integrity, and his commitment to community service.

20. Shah's testimony in this matter was wholly credible. He understands his obligations as a smog check inspector and as the proprietor of a licensed smog check test only station; he intends to satisfy those obligations; and he has taken reasonable steps to ensure that his employees do likewise.

Costs

21. The Bureau has incurred \$3,470 in costs for legal services provided to complainant by the Department of Justice in this matter. Complainant's claim for reimbursement of these costs is supported by a declaration that complies with California Code of Regulations, title 1, section 1042, subdivision (b)(2). These costs are reasonable.

22. Complainant also provided a cost certification stating that Bureau investigative staff costs in connection with this matter totaled \$2,943.52 for fiscal years "15/16" and "16/17." This certification states total hours and hourly rates for each fiscal year, but does not "describe the general tasks performed" or break down "the time spent on each task." For these reasons, this certification does not satisfy the requirements of California Code of Regulations, title 1, section 1042, subdivision (b)(1), and is inadequate evidence of the Bureau's investigative costs.

LEGAL CONCLUSIONS

1. The Bureau may discipline the automotive repair dealer registration Shah holds for Golden Star Smog upon proof that Shah or any Golden Star Smog employee has made any untrue or misleading statement in the course of business. (Bus. & Prof. Code, § 9884.7,² subd. (a)(1).) The matters stated in Finding 7 constitute cause for discipline under this statute.

2. The Bureau may discipline the automotive repair dealer registration Shah holds for Golden Star Smog upon proof that Shah or any Golden Star Smog employee has committed fraud. (Bus. & Prof. Code, § 9884.7, subd. (a)(4).) The matters stated in Finding 7 constitute cause for discipline under this statute.

² Although the accusation alleged cause for discipline as well under Business and Professions Code section 494, complainant disavowed reliance on this statute at the hearing.

3. Upon proof of a course of repeated and willful violations of the laws governing automotive repair dealers, the Bureau may discipline any other automotive repair dealer registrations Shah holds. (Bus. & Prof. Code, § 9884.7, subd. (c).) In light of the matters stated in Findings 8, 9, and 13, the matters stated in Finding 7 do not constitute cause for discipline against any automotive repair dealer registrations Shah holds other than the registration for Golden Star Smog.

4. The Bureau may discipline the smog check test only station license Shah holds for Golden Star Smog upon proof that Shah, acting through Golden Star Smog, has violated any of the laws and regulations governing the smog check program. (Health & Saf. Code, § 44072.2, subds. (a), (c).) These laws and regulations require, in pertinent part, that Golden Star Smog issue certificates of compliance only to vehicles that its inspectors have tested in accordance with the Bureau's testing specifications. (Health & Saf. Code, § 44012; Cal. Code Regs., tit. 16, §§ 3340.24, subd. (c), 3340.42.) The matters stated in Finding 7 constitute cause for discipline under these statutes and regulations.

5. The Bureau may discipline the smog check test only station license Shah holds for Golden Star Smog upon proof that Shah, acting through Golden Star Smog, has committed a dishonest or fraudulent act in the smog check program. (Health & Saf. Code, § 44072.2, subd. (d).) In light of the matters stated in Findings 10, 13, and 14, the matters stated in Finding 7 do not constitute cause for discipline under this statute.

6. If the Bureau disciplines one license Shah holds under the smog check program, it may (but need not) discipline others. (Health & Saf. Code, § 44072.8.) Although the matters stated in Legal Conclusion 5 permit the Bureau to discipline Shah's smog check inspector license, or any other smog check station licenses he may hold, such discipline is unwarranted in light of the matters stated in Findings 8 through 14.

7. The Bureau "shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles." (Health & Saf. Code, § 44072.10, subd. (c).) The evidence, in particular as stated in Findings 10, 13, and 14, did not establish that Shah participated in or condoned fraudulent inspections at Golden Star Smog, or even knew about them in time to prevent Hussain from performing them. Instead, as stated in Findings 8 through 11, Shah has worked in the smog check program for ten years, and unwittingly employed one apparently dishonest inspector for about three months. Complainant did not establish that revocation of Shah's smog check test only station license for Golden Star Smog is statutorily required, or that it is necessary to protect the smog check program's integrity.

8. The Bureau has adopted disciplinary guidelines. (Cal. Code Regs., tit. 16, § 3395.4.) These guidelines call for the Bureau to consider mitigation evidence, including "absence of prior disciplinary action," "mitigating and corrective steps to minimize recurrence," and "substantial measures to correct [the licensee's] business practices and/or business operations so as to minimize the likelihood of recurrence of the violation." (Guidelines for Disciplinary Orders and Terms of Probation, rev. March 2016, at pp. 2-3.) The matters

stated in Findings 8 through 17 are strong evidence mitigating the matters stated in Finding 7; furthermore, the matters stated in Findings 18 through 20 show that Shah is likely to comply with any probationary terms. The minimum term of probation, two years, is appropriate here.

9. The optional probation conditions listed in the Bureau's disciplinary guidelines that might apply to Shah's automotive repair dealer registration or smog check test only station license are optional terms 6 and 7. Optional term 6 would end Golden Star Smog's status as a STAR Station, but complainant did not seek this remedy in the accusation and did not give notice to Shah as required under the STAR program regulations. (See Cal. Code Regs., tit. 16, § 3392.6.1.) Optional term 7, limiting Shah's ability to delegate supervision of his smog inspectors to others, is appropriate here.

10. A licensee found to have committed a violation of the statutes and regulations governing automotive repair may be required to pay the Board the reasonable costs of its investigation and prosecution of the case. (Bus. & Prof. Code, § 125.3.) As set forth in Findings 21 and 22, the total reasonable costs proven in this matter were \$3,470.

11. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth the standards by which a licensing board must exercise its discretion to reduce or eliminate cost awards to ensure that the board does not deter licensees with potentially meritorious claims from exercising their administrative hearing rights. The court held that a licensing board requesting reimbursement for costs relating to a hearing must consider the licensee's "subjective good faith belief" in the merits of his position and whether the licensee has raised a "colorable challenge" to the proposed discipline. (*Id.* at p. 45.) The board also must consider whether the licensee will be "financially able to make later payments." (*Ibid.*) Lastly, the board may not assess full costs of investigation and enforcement when it has conducted a "disproportionately large investigation." (*Ibid.*)

12. All these matters have been considered. In this matter, the evidence at hearing exonerated respondent Shah of the most serious charges against him, and established his suitability for disciplinary measures short of license revocation. An order directing respondent to reimburse the Board \$1,750, for approximately half its investigation and prosecution costs, is reasonable.

ORDER

1. Automotive repair dealer registration number ARD266219, held by respondent Shah doing business as Golden Star Smog, is revoked. The revocation is stayed, however, and respondent Shah is placed on probation for two years on the conditions stated in paragraph 3, below.

2. Smog check test only station license number TC266219, held by respondent Shah doing business as Golden Star Smog, is revoked. The revocation is stayed, however, and respondent Shah is placed on probation for two years on the conditions stated in paragraph 3, below.

3. During the two years while automotive repair dealer registration number ARD266219 and smog check test only station license number TC266219 are on probation, the following conditions shall apply:

A. Obey All Laws

During the period of probation, respondent Shah shall comply with all federal and state statutes, regulations, and rules governing all Bureau registrations and licenses he holds.

B. Quarterly Reporting

During the period of probation, respondent Shah shall report either by personal appearance or in writing, as determined by the Bureau on a schedule set by the Bureau but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

C. Report Financial Interests

Respondent Shah shall, within 30 days after the effective date of the decision and within 30 days after the date of any request by the Bureau during the period of probation, report any financial interest which he or any business partners, officers, or co-owners may have in any other business required to be registered under Business and Professions Code section 9884.6.

D. Access to Examine Vehicles and Records

Respondent Shah shall provide unrestricted access to Bureau representatives to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including at the point of completion. Respondent Shah shall also provide Bureau representatives unrestricted access to all records in accordance with Bureau laws and regulations.

E. Tolling of Probation

If during probation respondent Shah leaves the jurisdiction of the State of California, or ceases to do business elsewhere, or ceases to do business in the jurisdiction of California, respondent Shah shall notify the Bureau in writing within 10 days

of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All terms and conditions of probation other than cost reimbursement requirements and the requirement that respondent Shah obey all laws shall be held in abeyance during any period of time of 30 days or longer in which respondent Shah is not residing or engaging in business within the jurisdiction of California. All terms and conditions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more during which respondent Shah is not residing or engaging in business within the jurisdiction of California shall not apply to reduce this probationary period. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

F. Violation of Probation

If respondent Shah violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard, may set aside the stay order and carry out the disciplinary order provided in this decision. Once respondent Shah receives notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

G. Maintain Valid License

Respondent Shah shall, at all times while on probation, maintain current and active registration and license with the Bureau, including during any period while probation is tolled. If respondent Shah's registration or license expires during the term of probation, by operation of law or otherwise, then upon renewal respondent Shah's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain current and active registration or license during the period of probation shall also constitute a violation of probation.

H. Cost Recovery

Respondent Shah shall pay the Bureau \$1,750 for the reasonable costs of the investigation and enforcement of Bureau Case Number 79/16-7674. Respondent Shah shall complete such payment six months before the end of the term of probation, in a lump sum or in a payment plan approved by the Bureau. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six months before the end of the term of probation. Respondent Shah shall make payment by check or money order

payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for Case Number 79/16-7674. Any order for payment of cost recovery, including any payment schedule, shall remain in effect whether or not probation is tolled. Probation shall not end until full cost recovery payment has been made. The Bureau reserves the right to pursue any lawful measures to collect costs ordered and past due, in addition to taking action based on the violation of probation.

I. Completion of Probation

Upon successful completion of probation, respondent Shah's automotive repair dealer registration and smog check test only station license will be fully restored or issued without restriction, if respondent Shah meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

J. License Surrender

Following the effective date of this decision and order, if respondent Shah ceases business operations or becomes otherwise unable to satisfy the terms and conditions of probation, respondent Shah may request that the stay be vacated. Any such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate any such request and to exercise discretion whether to grant the request or to take any other action that is appropriate and reasonable under the circumstances. Upon formal granting of a request to vacate the stay, the Director will vacate the stay order and carry out the disciplinary order.

Respondent Shah may not petition the Director for reinstatement of the surrendered registration or license, or apply for a new registration or license under the Bureau's jurisdiction, at any time before the date of the originally scheduled completion of probation. If respondent Shah applies to the Bureau for a registration or license at any time after that date, respondent Shah must meet all current requirements for registration or licensure and must pay any fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

K. Supervision Requirements

Respondent Shah shall not delegate his supervisory duties, as they relate to the business activities relevant to the probationary license, to another person during the period of probation. Any person employed by respondent Shah to carry out business activities at Golden Star Smog shall be directly supervised by Shah. In the event that a bona fide medical condition arises during the period of probation, which temporarily prevents respondent Shah from

exercising direct supervision over Golden Star Smog's employees, notice and medical substantiation of the condition shall be submitted to the Bureau within 10 days of medical affirmation of the condition.

4. Any other automotive repair dealer registrations and smog check station licenses held by Shah shall continue unmodified.

5. Smog check inspector license number EO154238 held by respondent Shah shall continue unmodified.

6. No disposition is made in this decision and order of the accusation with respect to respondent Yusuf Rayhat Khalid Hussain.

DATED: August 30, 2017

Not signed by
Juliet E. Cox
9AUG08FCA0704GE

JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

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7
8 BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 AMIR SAIFULLAH SHAN
DBA GOLDEN STAR SMOG
12 2484 Olivera Road
Concord, CA 94520

13 Mailing Address:
2505 Bugle Way
14 Antioch, CA 94531

15 Automotive Repair Dealer No. ARD 266219
Smog Check Test Only Station License No. 266219

16 YUSUF RAYHAT KHALID HUSSAIN
17 115 Frisbee St.
Vallejo, CA 94590

18 Smog Check Inspector (EO) license No. EO634973
19

20 Respondents.

Case Number: 79/16-7674

ACCUSATION
Smog Check

21 Complainant alleges:

22 PARTIES

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

25 Automotive Repair Dealer Registration

26 2. On or about August 11, 2011, the Bureau issued Automotive Repair Dealer
27 Registration Number ARD 266219 ("Registration") to Amir Saifullah Shan ("Respondent Shan")
28

ACCUSATION

1 doing business as Golden Star Smog. The registration was in full force and effect at all times
2 relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

3 **Smog Check Test Only Station License**

4 3. On or about August 23, 2011, the Bureau issued Smog Check Station License
5 Number TC 266219 ("smog station license") to Respondent Shan. The smog station license was
6 in full force and effect at all times relevant to the charges brought herein and will expire on
7 August 31, 2017, unless renewed.

8 **Smog Check Inspector License**

9 4. On or about November 26, 2012, the Director issued Smog Check Inspector License
10 EO 634973 to Yusaf Rayhat Khalid Hussain (Respondent Hussain). Respondent Hussain's Smog
11 Check Inspector License will expire on December 31, 2016, unless renewed.

12 **JURISDICTION**

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

15 **STATUTORY AND REGULATORY PROVISIONS**

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

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

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

26 ...
27 (4) Any other conduct that constitutes fraud.

28 ...

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

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

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

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

15 9. Section 44012 of the Health and Safety Code requires that tests at smog check
16 stations be performed in accordance with procedures prescribed by the department.

17 10. Section 44059 of the Health and Safety Code states, in pertinent part:

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

22 11. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

26 (a) Violates any section of this chapter and the regulations adopted pursuant to it, which
27 related to the licensed activities.

28

- 1 (c) Violates any of the regulations adopted by the director pursuant to this chapter.
- 2 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.
- 3
- 4 (h) Violates or attempts to violate the provisions of this chapter relating to the particular
- 5 activity for which he or she is licensed.

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

10 13. Section 44072.8 of the Health and Safety Code states:

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

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

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

18 15. California Code of Regulations, title 16, section 3340.30, states, in pertinent part:

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

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

24

25 16. California Code of Regulations, title 16, section 3340.41(c), states:

26 "No person shall enter into the emissions inspection system any vehicle identification
27 information or emission control system identification data for any vehicle other than the one
28

1 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
2 information about the vehicle being tested."

3 17. California Code of Regulations, title 16, section 3340.42, states, in pertinent part that
4 "Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
5 section 3340.45."

6 18. California Code of Regulations, title 16, section 3340.45, states:

7 (a) All Smog Check inspections shall be performed in accordance with requirements and
8 procedures prescribed in the following:

9 (1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
10 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.

11 (2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
12 manual shall become effective on or after January 1, 2013.

13 FACTUAL SUMMARY

14 19. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring
15 the use of the On Board Diagnostic Inspection System (BAR-OIS) instead of the Emission
16 Inspection System (EIS) for the smog testing of 2000 model year and newer gas powered and
17 hybrid vehicles.

18 20. The new BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
19 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
20 vehicle's On Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR
21 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
22 vehicle. The bar code scanner is used to input technician information, the vehicle identification
23 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
24 Reports.

25 21. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
26 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
27 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
28

1 PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the
2 number of specific data values each PCM uses related to emissions controls.

3 22. As part of the BAR-OIS smog inspections, the technician also performs a visual and
4 functional test on the vehicle being inspected. The visual inspection of the emission control
5 components verifies the required emission control devices are present and properly connected and
6 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
7 makes the determination whether or not the vehicle passes the inspection based on the results of
8 the OBD, visual and functional tests, if the vehicle passes the inspection a certificate of
9 compliance is issued. The information from the smog inspection is then transmitted to the
10 Vehicle Information Data (VID).

11 23. The Bureau can access the VID to view test data on smog check inspections
12 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
13 particular vehicle which has been tested.

14 24. The Bureau has become aware of several methods used by Smog Check stations and
15 Smog Check technicians to issue improper/fraudulent smog certificates of compliance. One
16 method is known as clean plugging. Clean plugging involves using another vehicle's properly
17 functioning OBD II system, or another source, to generate passing diagnostic readings for the
18 purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog
19 compliance and/or are not present for testing.

20 25. The Bureau initiated an investigation of Respondent Shan's smog station, Golden Star
21 Smog. Beginning on or about May 4, 2016 and continuing until about May 17, 2016,
22 Respondents¹ were found to have performed ten fraudulent smog inspections using clean-
23 plugging methods. Clean-plugging is the practice of testing one OBD II system (a system that
24 would pass the smog inspection), for the purpose of fraudulently issuing a smog certificate of
25 compliance to another vehicle that would not pass the smog inspection and/or is not present for

26
27
28 ¹ Respondent Hussain performed the smog tests on behalf of Respondent Shan.

1 testing. The vehicle receiving the certificate of compliance is not actually tested during the smog
2 inspection.

3 26. A Bureau representative reviewed data for vehicles inspected by Respondent Hussain
4 and certified by Respondent Shan. The data revealed that the ten vehicles that were purportedly
5 tested by Respondents were not and could not have been connected to the DAD when they were
6 being certified because the OBD-II data purportedly transmitted by those vehicles could not have
7 actually been transmitted by those vehicles.

8 27. Respondents clean plugged and issued fraudulent certificates of compliance to the
9 following ten vehicles:

10
11 a) Clean Plug #1- 2007 Chevrolet Colorado

Certificate #	eVIN	Protocol	PID count
ZB020775C			
Fraudulent Passing Inspection (3/26/2016)	1FAHP60A22Y113994	JPWM1830	21
Expected OBDII Value	1GCCS199978188317	JVPW	19

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18 b) Clean Plug #2- 2006 Toyota Highlander

Certificate #	eVIN	Protocol	PID count
ZB370363C			
Fraudulent Passing Inspection (4/1/2016)	2B3KA53H68H128451	ICAN11b1500	43
Expected OBDII Value	1TEGD21A360143342	1914	17

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c) Clean Plug #3- 2000 Mazda MPV Wagon

Certificate #	eVIN	Protocol	PID count
ZB370373C			
Fraudulent Passing Inspection (4/2/2016)	KL1TD56606B641101	KWPF8FE9	36
Expected OBDII Value	Not Reported	I914	20

d) Clean Plug #4- 2001 Toyota Sienna LE/XLE

Certificate #	eVIN	Protocol	PID count
ZB370374C			
Fraudulent Passing Inspection (4/2/2016)	KL1TD56606B641101	KWPF8FE9	36
Expected OBDII Value	Not Reported	I914	20

e) Clean Plug #5- 2001 Chevrolet Silverado C1500

Certificate #	eVIN	Protocol	PID count
ZB667304C			
Fraudulent Passing Inspection (4/8/2016)	ID7HU18N58J173893	ICANI1bt500	44
Expected OBDII Value	1GCEC19T81Z330790	JVPW	23

f) Clean Plug #6- 2002 Toyota Sienna LE/XLE

Certificate #	eVIN	Protocol	PID count
ZB667337C			
Fraudulent Passing Inspection (4/15/2016)	1J4NT2GA5AD520335	ICANI1bt500	36
Expected OBDII Value	Not Reported	I914	20

g) Clean Plug #7- 2000 Chevrolet Silverado C1500

Certificate #	eVIN	Protocol	PID count
ZB667341C			
Fraudulent Passing Inspection (4/15/2016)	2C3CCAEG3FH920892	ICANI1bt500	43
Expected OBDII Value	Not Reported	JVPW	22

h) Clean Plug #8- 2010 Chevrolet Cobalt LT

Certificate #	eVIN	Protocol	PID count
ZB962496C			
Fraudulent Passing Inspection (4/25/2016)	2GCEC19V941148966	JVPW1850	22
Expected OBDII Value	1G1AD5P5XA7175513	ICANI1bt5	38/7

i) Clean Plug #9- 2008 Dodge Charger CA

Certificate #	eVIN	Protocol	PID count
ZD245866C			
Fraudulent Passing Inspection (4/29/2016)	2HNYD18866H533086	19140808	25
Expected OBDII Value	2B3KA43G08H206269	ICANI1bt5	43

j) Clean Plug #10- 2004 Chevrolet Tahoe K1500 CA

Certificate #	eVIN	Protocol	PID count
ZD245868C			
Fraudulent Passing Inspection (4/29/2016)	JTEES42A182076707	ICANI1bt500	46
Expected OBDII Value	1GNEK13T34R103188	JVPW	22

1 FIRST CAUSE FOR DISCIPLINE

2 (Misleading Statements - Registration)

3 28. Respondent Shan has subjected his registration to discipline under Code sections 494
4 and 9884.7, subdivision (a)(1), in that he made statements which he knew or which by exercise of
5 reasonable care he should have known were untrue or misleading, as set forth above in
6 paragraphs 25-27, above. Respondents fraudulently purported to test the 10 vehicles, and
7 certified that the 10 vehicles passed inspection and were in compliance with applicable laws and
8 regulations. In fact, Respondents conducted the inspections on those vehicles using clean-
9 plugging methods.

10 SECOND CAUSE FOR DISCIPLINE

11 (Fraud - Registration)

12 29. Respondent Shan has subjected his registration to discipline under Code sections 494
13 and 9884.7, subdivision (a)(4), in that he committed acts which constitute fraud, as set forth
14 above in paragraphs 25-27, above.

15 THIRD CAUSE FOR DISCIPLINE

16 (Violation of the Motor Vehicle Inspection Program - Smog Station License)

17 30. Respondent Shan has subjected his station license to discipline under Health and
18 Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that he violated sections
19 of that Code and applicable regulations, as set forth above in paragraphs 25-27, as follows:

20 a. Section 44012: Respondent Shan failed to ensure that the emission control tests were
21 performed on those vehicles in accordance with procedures prescribed by the department.

22 b. Section 3340.24, subdivision (c): Respondent Shan falsely or fraudulently issued
23 electronic certificates of compliance for those vehicles without performing bona fide inspections
24 of the emission control devices and systems on the vehicles as required by Health and Safety
25 Code section 44012.

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

28 ///

1 FOURTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit - Smog Station License)

3 31. Respondent Shan subjected his station license to discipline under Health and Safety
4 Code sections 44072.10 and 44072.2, subdivision (d), in that he committed acts involving
5 dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of
6 compliance for vehicles without performing bona fide inspections of the emission control devices
7 and systems on the vehicles, thereby depriving the People of the State of California of the
8 protection afforded by the Motor Vehicle Inspection Program, as set forth above in paragraphs
9 25-27, above.

10 FIFTH CAUSE FOR DISCIPLINE

11 (Violations of the Motor Vehicle Inspection Program - Smog Check License)

12 32. Respondent Hussain has subjected his Smog Check Inspector license to discipline
13 under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that he
14 violated sections of that Code and applicable regulations, as set forth above in paragraphs 25-27,
15 as follows:

16 a. Section 44012: Respondent Hussain failed to ensure that the emission control tests
17 were performed on those vehicles in accordance with procedures prescribed by the department.

18 b. Section 44059: Respondent Hussain willfully made false entries for the electronic
19 certificates of compliance by certifying that those vehicles had been inspected as required when,
20 in fact, they had not.

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

25 d. Section 3340.30, subdivision (a): Respondent Hussain failed to inspect and test
26 those vehicles in accordance with Health and Safety Code section 44012 and California Code of
27 Regulations title 16, section 3340.42.

1 e. Section 3340.41, subdivision (c): Respondent Hussain entered vehicle identification
2 information for a vehicle other than the one being tested into the emissions inspection system.
3 Respondent Hussain knowingly entered false information about the vehicle being tested into the
4 emissions inspection system.

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

7 SIXTH CAUSE FOR DISCIPLINE

8 (Dishonesty, Fraud or Deceit - Smog Check License)

9 33. Respondent Hussain subjected his Smog Check Inspector License to discipline under
10 Health and Safety Code sections 44072.10 and 44072.2, subdivision (d), in that he committed acts
11 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
12 certificates of compliance for vehicles without performing bona fide inspections of the emission
13 control devices and systems on the vehicles, thereby depriving the People of the State of
14 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
15 in paragraphs 25-27.

16 OTHER MATTERS

17 34. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
18 or place on probation the registration for all places of business operated in this state by
19 Respondent Shan, upon a finding that Respondent Shan has, or is, engaged in a course of repeated
20 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

21 35. Pursuant to Health & Safety Code section 44072.8, if Respondent Shan's Station
22 License is revoked or suspended, any additional license issued under chapter 5 of the Motor
23 Vehicle Inspection Program in the name of said licensee may be likewise revoked or suspended
24 by the director.

25 36. Pursuant to Health & Safety Code section 44072.8, if Respondent Hussain's Smog
26 Check Inspector License is revoked or suspended, any additional license issued under chapter 5 of
27 the Motor Vehicle Inspection Program in the name of said licensee may be likewise revoked or
28 suspended by the director.

1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
5 266219 issued to Amir Saifullah Shan doing business as Golden Star Smog;

6 2. Revoking or suspending Smog Check Test Only Station License Number TC
7 266219 issued to Amir Saifullah Shan doing business as Golden Star Smog;

8 3. Revoking or suspending any additional Automotive Repair Dealer Registration,
9 Smog Check Station License, Smog Check Inspector License, or Smog Check Repair Technician
10 license, issued to Amir Saifullah Shan;

11 4. Ordering Amir Saifullah Shan to pay the Bureau of Automotive Repair the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 5. Revoking or suspending Smog Check Inspector License EO 634973 issued to
15 Yusaf Rayhat Khalid Hussain;

16 6. Revoking or suspending any additional Smog Check Station License, Smog Check
17 Inspector License, or Smog Check Repair Technician License, issued to Yusaf Rayhat Khalid
18 Hussain;

19 7. Ordering Yusaf Rayhat Khalid Hussain to pay the Bureau of Automotive Repair
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3;

22 8. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 12-27-16

25 PATRICK DORAIS by DORA BALANT
26 PATRICK DORAIS
27 Chief
28 Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant