

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

**GURJIT SINGH MINHAS, Owner
BERKELEY SMOG TEST ONLY
CENTER
1010 Carleton Street # A
Berkeley, CA 94710
Automotive Repair Dealer No. ARD 254780
Smog Check Test Only Station License No.
TC 254780**

**SAN PABLO SMOG TEST ONLY
CENTER
6305 San Pablo Avenue
Oakland, CA 94608
Automotive Repair Dealer No. ARD 254540
Smog Check Test Only Station License No.
TC 254540**

**DANIEL RICHARD HORD
863 Allview Avenue
El Sobrante, CA 94803
Advanced Emission Specialist Technician
License No. EA 153387**

Respondents.

Case No. 79/13-11

DEFAULT DECISION AND ORDER

(As to Gurjit Singh Minhas, only)

[Gov. Code, §11520]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FINDINGS OF FACT

1. On or about August 27, 2012, Complainant John Wallauch, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/13-11 against Gurjit Singh Minhas (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about May 8, 2008, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer No. ARD254780 to Respondent, Gurjit Singh Minhas, owner of Berkeley Smog Test Only Center. The Automotive Repair Dealer will expire on March 31, 2013, unless renewed.

3. On or about May 16, 2008, the Bureau of Automotive Repair issued Smog Check Test Only Station No. TC254780 to Respondent, Gurjit Singh Minhas, owner of Berkeley Smog Test Only Center. On November 14, 2011, Respondent's license was revoked, however, the revocation was stayed and Respondent was placed on probation for three years on terms and conditions. The Smog Check Test Only Station will expire on March 31, 2013, unless renewed.

4. On or about April 18, 2008, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 254540 to Respondent, Gurjit Singh Minhas, owner of San Pablo Smog Test Only Center. The Automotive Repair Dealer Registration will expire on March 31, 2013, unless renewed.

5. On or about April 21, 2008, the Bureau of Automotive Repair issued Smog Check Test Only Station License Number TC 254540 to Respondent, Gurjit Singh Minhas, owner of San Pablo Smog Test Only Center. The Smog Check Test Only Station License will expire on March 31, 2013, unless renewed.

6. On or about September 7, 2012, Respondent, Gurjit Singh Minhas was served by Certified Mail copies of the Accusation No. 79/13-11, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau.

1 //

2 Respondent's address of record was and is:

3 Gurjit Singh Minhas
4 1010 Carleton Street # A
5 Berkeley, CA 94710.

6 7. The Domestic Return Receipt indicates that the above service of the Accusation was
7 effective on September 12, 2012, as a matter of law under the provisions of Government Code
8 section 11505, subdivision (c) and/or Business & Professions Code section 124. (Domestic
9 Return Receipt Attached as Exhibit B.)

10 8. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the
12 respondent files a notice of defense, and the notice shall be deemed a specific
13 denial of all parts of the accusation not expressly admitted. Failure to file a
14 notice of defense shall constitute a waiver of respondent's right to a hearing,
15 but the agency in its discretion may nevertheless grant a hearing.

16 9. Respondent, Gurjit Singh Minhas failed to file a Notice of Defense within 15 days
17 after service upon him of the Accusation, and therefore waived his right to a hearing on the merits
18 of Accusation No. 79/13-11.

19 10. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express
22 admissions or upon other evidence and affidavits may be used as evidence
23 without any notice to respondent.

24 11. Pursuant to its authority under Government Code section 11520, the Director, after
25 having reviewed the proof of service dated September 7, 2012, signed by Ryan Mallard, and the
26 Domestic Return Receipt confirmation of delivery signed by Samir Elzein on September 12, 2012,
27 finds Respondent, Gurjit Singh Minhas is in default. The Director will take action without further
28 hearing and, based on Accusation No. 79/13-11, proof of service and on the Affidavit of Bureau
Representative Roy Peach, finds that the allegations in the Accusation are true.

12. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$3,257.50, as of October 17, 2012.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Gurjit Singh Minhas has
3 subjected his Automotive Repair Dealer Nos. ARD 254780 and ARD 254540 and Smog Check
4 Test Only Station License Nos. TC 254780 and TC 254540 to discipline.

5 2. The agency has jurisdiction to adjudicate this case by default.

6 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
7 Repair Dealer license based upon the following violations alleged in the Accusation which are
8 supported by the evidence contained in the affidavit of Bureau Representative Roy Peach in this
9 case:

10 a. Violation of Business & Professions Code section 9884.7, subdivision (a)(1),
11 for making untrue or misleading statements with regard to the issuance of electronic Certificates
12 of Compliance Numbers OI284227C, OI586741C, and OK457110C.

13 b. Violation of Business & Professions Code section 9884.7, subdivision (a)(4) for
14 committing acts of fraud with regard to the issuance of electronic Certificates of Compliance
15 Numbers OI284227C, OI586741C, and OK457110C.

16 c. Violation of Health & Safety Code sections 44072.2, subdivision (a), section
17 44012 and section 44015, for failing to comply with the Motor Vehicle Inspection Program.

18 d. Violation of Health & Safety Code sections 44072.2, subdivision (c), section
19 3340.24, subdivision (c), section 3340.35, subdivision (c), 3and section 3340.42, for failing to
20 comply with the Motor Vehicle Inspection Program.

21 e. Violation of Health & Safety Code sections 44072.2, subdivision (d), for failing
22 to comply with the Motor Vehicle Inspection Program.

23 f. Cause exists to revoke Respondent, Gurjit Singh Minhas' probation because he
24 failed to comply with all statues, regulations and rules governing automotive inspections,
25 estimates, and repairs, as set forth in Condition 2, of his probation.

26 ORDER

27 IT IS SO ORDERED that Automotive Repair Dealer No. ARD254780, Automotive Repair
28 Dealer No. ARD 254540, Smog Check Test Only Station License No. TC 254780 and Smog

1 Check Test Only Station License No. TC 254540 heretofore issued to Respondent, Gurjit Singh
2 Minhas, are revoked.

3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
4 written motion requesting that the Decision be vacated and stating the grounds relied on within
5 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
6 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
7 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
8 on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on 1/30/13.

10 It is so ORDERED January 9, 2013.

11
12 

13 DOREATHEA JOHNSON
14 Deputy Director, Legal Affairs
Department of Consumer Affairs

15 Attachment: Exhibit A - Accusation
16
17
18
19
20

21 90268247.DOC
SF2012900831
22
23
24
25
26
27
28

Exhibit A:

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2138
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

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

Case No. 79/13-11

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

13 **GURJIT SINGH MINHAS, Owner**
14 **BERKELEY SMOG TEST ONLY**
CENTER
15 **1010 Carleton Street # A**
Berkeley, CA 94710
16 **Automotive Repair Dealer No. ARD 254780**
17 **Smog Check Test Only Station License No.**
TC 254780

Smog Check

18 **SAN PABLO SMOG TEST ONLY**
19 **CENTER**
20 **6305 San Pablo Avenue**
Oakland, CA 94608
21 **Automotive Repair Dealer No. ARD 254540**
22 **Smog Check Test Only Station License No.**
TC 254540

23 **DANIEL RICHARD HORD**
24 **863 Allview Avenue**
El Sobrante, CA 94803
25 **Advanced Emission Specialist Technician**
License No. EA 153387

26 Respondents.

27
28 ///

1 Complainant alleges:

2 **PARTIES**

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

6 **Berkeley Smog Test Only Center; Gurjit Singh Minhas, Owner**

7 2. On or about May 8, 2008, the Director of Consumer Affairs ("Director") issued
8 Automotive Repair Dealer Registration Number ARD 254780 to Gurjit Singh Minhas
9 ("Respondent Minhas"), owner of Berkeley Smog Test Only Center. On November 14, 2011,
10 respondent's registration was revoked, however, the revocation was stayed and Respondent was
11 placed on probation for three years on terms and conditions, as set forth in paragraphs 7, 8, and 9
12 below. The Automotive Repair Dealer Registration will expire on March 31, 2013, unless
13 renewed.

14 3. On or about May 16, 2008, the Director issued Smog Check Test Only Station
15 License Number TC254780 to Gurjit Singh Minhas ("Respondent Minhas"), owner of Berkeley
16 Smog Test Only Center. On November 14, 2011, respondent's license was revoked, however, the
17 revocation was stayed and Respondent was placed on probation for three years on terms and
18 conditions, as set forth in paragraphs 7, 8, and 9 below. The Smog Check Test Only Station will
19 expire on March 31, 2013, unless renewed.

20 **San Pablo Smog Test Only Center; Gurjit Singh Minhas, Owner**

21 4. On or about April 18, 2008, the Director issued Automotive Repair Dealer
22 Registration Number ARD 254540 to Gurjit Singh Minhas ("Respondent Minhas"), owner of San
23 Pablo Smog Test Only Center. The Automotive Repair Dealer Registration will expire on March
24 13, 2013, unless renewed.

25 5. On or about April 21, 2008, the Director issued Smog Check Test Only Station
26 License Number TC 254540 to Gurjit Singh Minhas ("Respondent Minhas"), owner of San Pablo
27 Smog Test Only Center. The Smog Test Only Station License will expire on March 31, 2013,
28 unless renewed.

1 **Daniel Richard Hord**

2 6. In or about 2006, the Director issued Advanced Emission Specialist Technician
3 License Number EA 153387 ("technician license") to Respondent Hord. Respondent's technician
4 license was cited on January 23, 2009; August 18, 2009; and January 25, 2010, for failure to
5 follow inspection procedures. Respondent's technician license will expire on October 31, 2012,
6 unless renewed.

7 **DISCIPLINARY HISTORY**

8 7. In a disciplinary action entitled "In the Matter of the Accusation Against: *Berkeley*
9 *Smog Test Only Center, Gurjit Singh Minhas, Owner*" Case No. 79/11-66, the Bureau of
10 Automotive Repair issued a Decision and Order effective November 14, 2011, in which
11 Respondent, Minhas' Automotive Repair Dealer Registration No. ARD 254780 and Smog Check
12 Test Only Station License No. TC 254780 was revoked. However, the revocations were stayed
13 and Respondent's Automotive Repair Dealer Registration and Smog Check Test Only Station
14 License were placed on probation for three (3) years with certain terms and conditions. A copy of
15 that Decision and Order is attached as Exhibit A and is incorporated by reference.

16 8. Condition 2 of Respondent Minhas' probation states that Respondent shall comply
17 with all statutes, regulations and rules governing automotive inspections, estimates, and repairs.

18 9. Condition 8 of Respondent Minhas' probation states that should the Director
19 determine that Respondent has failed to comply with the terms and conditions of probation, the
20 Department may, after giving notice and opportunity to be heard, suspend or revoke the
21 registration and license.

22 10. The Bureau issued Citation #C09-0861 to Respondent, Minhas, owner, San Pablo
23 Test Only Center, on January 23, 2009. Respondent Minhas paid a fine in the amount of \$500.00.
24 A Citation conference was held on March 19, 2009.

25 11. The Bureau issued Citation #C2010-0137 to Respondent, Minhas, owner, San Pablo
26 Test Only Center, on August 18, 2009. Respondent Minhas paid a fine in the amount of
27 \$1,000.00. A Citation conference was held on September 28, 2009.

28

1 (8) Making false promises of a character likely to influence, persuade, or induce a
2 customer to authorize the repair, service, or maintenance of automobiles.

3 (9) Having repair work done by someone other than the dealer or his or her employees
4 without the knowledge or consent of the customer unless the dealer can demonstrate that the
5 customer could not reasonably have been notified.

6 (10) Conviction of a violation of Section 551 of the Penal Code.

7 Upon denying of registration, the director shall notify the applicant thereof, in writing, by
8 personal service or mail addressed to the address of the applicant set forth in the application, and
9 the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or
10 she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

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

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

20 22. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

27 "(b) Is convicted of any crime substantially related to the qualifications, functions, and
28 duties of the license holder in question.

- 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 (e) Has misrepresented a material fact in obtaining a license.
- 4 (f) Aids or abets unlicensed persons to evade the provisions of this chapter.
- 5 (g) Fails to make and keep records showing his or her transactions as a licensee, or fails to
- 6 have those records available for inspection by the director or his or her duly authorized
- 7 representative for a period of not less than three years after completion of any transaction to
- 8 which the records refer, or refuses to comply with a written request of the director to make the
- 9 records available for inspection.
- 10 (h) Violates or attempts to violate the provisions of this chapter relating to the particular
- 11 activity for which he or she is licensed."

12 23. Health and Safety Code section 44072.8 states:

13 "When a license has been revoked or suspended following a hearing under this article, any

14 additional license issued under this chapter in the name of the licensee may be likewise revoked

15 or suspended by the director."

16 24. Health and Safety Code section 44072.10 states in pertinent part:

17 ...

18 (c) The department shall revoke the license of any smog check technician or station

19 licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of

20 vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

21 ...

22 (4) Intentional or willful violation of this chapter or any regulation, standard, or

23 procedure of the department implementing this chapter. . .

24 25. Business and Professions Code section 477 provides, in pertinent part, that "Board"

25 includes "bureau," "commission," "committee," "department," "division," "examining

26 committee," "program," and "agency." "License" includes certificate, registration or other means

27 to engage in a business or profession regulated by the Code.

28

1 **COST RECOVERY**

2 26. Business and Professions Code section 125.3 provides, in pertinent part, that a Board
3 may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 **ACCUSATION**

7 **Undercover Operation #1: 2002 Dodge Dakota**

8 27. On November 9, 2011, an undercover operator with the Bureau ("operator") took the
9 Bureau's 2002 Dodge Dakota to Berkeley Smog Test Only Center located in Berkeley,
10 California, and requested a smog inspection from Respondent Hord. The evaporative emission
11 control system ("EVAP") canister had been removed from the Bureau-documented vehicle (the
12 vehicle would not pass a California smog check inspection in this condition). Respondent Hord
13 performed the smog inspection. After the inspection was completed, the operator paid \$59.95 and
14 received a copy of an invoice and a Vehicle Inspection Report (VIR). The VIR indicated that a
15 smog inspection had been performed on the vehicle by Respondent Hord at Respondent Minhas'
16 facility and that the vehicle had passed the inspection, resulting in the issuance of electronic smog
17 Certificate of Compliance Number O1284227C.

18 28. On January 9, 2012, the Bureau performed a smog inspection on the vehicle. The
19 vehicle failed the inspection due to a missing EVAP canister.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 29. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
23 and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
24 statement which he knew or in the exercise of reasonable care should have known to be untrue or
25 misleading, as follows: Respondent Minhas' technician, Respondent Hord, certified under
26 penalty of perjury on the VIR that the Bureau's 2002 Dodge Dakota had passed inspection and
27 was in compliance with applicable laws and regulations. In fact, the EVAP canister had been
28

1 removed from the vehicle and as such, the vehicle would not pass the inspection required by
2 Health and Safety Code section 44012.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 30. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
6 and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
7 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 2002
8 Dodge Dakota when, in fact, a bona fide inspection had not been performed of the emission
9 control devices and systems on the vehicle, thereby depriving the People of the State of California
10 of the protection afforded by the Motor Vehicle Inspection Program.

11 **THIRD CAUSE FOR DISCIPLINE**

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

13 31. Respondent Minhas' smog check station license is subject to disciplinary action
14 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent failed to
15 comply with provisions of that code, as follows:

16 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
17 performed on the Bureau's 2002 Dodge Dakota in accordance with procedures prescribed by the
18 department.

19 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
20 the Bureau's 2002 Dodge Dakota without ensuring that the vehicle was properly tested and
21 inspected to determine if it was in compliance with Health and Safety Code section 44012.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 32. Respondent Minhas' smog check station license is subject to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent failed to
26 comply with provisions of title 16, California Code of Regulations, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
28 electronic smog certificate of compliance for the Bureau's 2002 Dodge Dakota without ensuring

1 that a bona fide inspection was performed of the emission control devices and systems on the
2 vehicle as required by health and Safety Code section 44012.

3 b. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate
4 of compliance for the Bureau's 2002 Dodge Dakota even though the vehicle had not been
5 inspected in accordance with title 16, California Code of Regulations, section 3340.42.

6 c. **Section 3340.42**: Respondent failed to ensure that the required smog tests were
7 conducted on the Bureau's 2002 Dodge Dakota in accordance with the Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Dishonesty Fraud or Deceit)**

10 33. Respondent Minhas' smog check station license is subject to disciplinary action
11 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
12 committed an act involving dishonesty, fraud, or deceit whereby another is injured by issuing an
13 electronic smog certificate of compliance for the Bureau's 2002 Dodge Dakota when, in fact, a
14 bona fide inspection was not performed of the emission control devices and systems on the
15 vehicle. This conduct thereby deprived the People of the State of California of the protection
16 afforded by the Motor Vehicle Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 34. Respondent Hord's technician license is subject to disciplinary action pursuant to
20 Health and Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply
21 with provisions of that Code, as follows:

22 a. **Section 44012**: Respondent failed to perform the emission control tests on the
23 Bureau's 2002 Dodge Dakota in accordance with procedures prescribed by the department.

24 b. **Section 44059**: Respondent willfully made false entries on the VIR, as set forth in
25 paragraph 27, above.

26 ///

27 ///

28 ///

1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 35. Respondent Hord's technician license is subject to disciplinary action pursuant to
4 Health and Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply
5 with provisions of title 16, California Code of Regulations, as follows:

6 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an
7 electronic smog certificate of compliance for the Bureau's 2002 Dodge Dakota.

8 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's
9 2002 Dodge Dakota in accordance with Health and Safety Code sections 44012 and 44035, and
10 title 16, California Code of Regulations, section 3340.42.

11 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the
12 Bureau's 2002 Dodge Dakota in accordance with the Bureau's specifications.

13 **EIGHTH CAUSE FOR DISCIPLINE**

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

15 36. Respondent Hord's technician license is subject to disciplinary action pursuant to
16 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed a
17 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
18 certificate of compliance for the Bureau's 2002 Dodge Dakota without performing a bona fide
19 inspection of the emission control devices and systems on the vehicle. This conduct thereby
20 deprived the People of the State of California of the protection afforded by the Motor Vehicle
21 Inspection Program.

22 **Undercover Operation #2: 1995 Chevrolet Impala SS**

23 37. On December 7, 2011, an undercover operator with the Bureau ("operator") took the
24 Bureau's 1995 Chevrolet Impala SS to Berkeley Smog Test Only Center located in Berkeley,
25 California, and requested a smog inspection from Respondent Hord. The Positive Crankcase
26 Ventilation ("PCV") valve and feed pipe had been removed from the Bureau-documented vehicle
27 and plugs were installed (the vehicle would not pass a California smog check inspection in this
28 condition). Respondent Hord performed the smog inspection. After the inspection was

1 completed, the operator paid \$59.95 and received a copy of an invoice and estimate and a Vehicle
2 Inspection Report (VIR). The VIR indicated that a smog inspection had been performed on the
3 vehicle by Respondent Hord at Respondent Minhas' facility and that the vehicle had passed the
4 inspection, resulting in the issuance of electronic smog Certificate of Compliance Number
5 OI586741C.

6 38. On January 5, 2012, the Bureau performed a smog inspection on the vehicle. The
7 vehicle failed the inspection due to a missing PCV valve and feed pipe.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 39. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
11 and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
12 statement which he knew or in the exercise of reasonable care should have known to be untrue or
13 misleading, as follows: Respondent Minhas' technician, Respondent Hord, certified under
14 penalty of perjury on the VIR that the Bureau's 1995 Chevrolet Impala SS had passed inspection
15 and was in compliance with applicable laws and regulations. In fact, the PCV valve and feed pipe
16 had been removed from the vehicle and as such, the vehicle would not pass the inspection
17 required by Health and Safety Code section 44012.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 40. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
21 and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
22 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1995
23 Chevrolet Impala SS when, in fact, a bona fide inspection had not been performed of the emission
24 control devices and systems on the vehicle. This conduct thereby deprived the People of the State
25 of California of the protection afforded by the Motor Vehicle Inspection Program.

26 ///

27 ///

28 ///

1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty Fraud or Deceit)**

3 43. Respondent Minhas' smog check station license is subject to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
5 committed an act involving dishonesty, fraud, or deceit whereby another is injured by issuing an
6 electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Impala SS when, in
7 fact, a bona fide inspection was not performed of the emission control devices and systems on the
8 vehicle. This conduct thereby deprived the People of the State of California of the protection
9 afforded by the Motor Vehicle Inspection Program.

10 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

12 44. Respondent Hord's technician license is subject to disciplinary action pursuant to
13 Health and Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply
14 with provisions of that Code, as follows:

15 a. **Section 44012:** Respondent failed to perform the emission control tests on the
16 Bureau's 1995 Chevrolet Impala SS in accordance with procedures prescribed by the department.

17 b. **Section 44059:** Respondent willfully made false entries on the VIR, as set forth in
18 paragraph 27, above.

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

21 45. Respondent Hord's technician license is subject to disciplinary action pursuant to
22 Health and Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply
23 with provisions of title 16, California Code of Regulations, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
25 electronic smog certificate of compliance for the Bureau's 1995 Chevrolet Impala SS.

26 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's
27 1995 Chevrolet Impala SS in accordance with Health and Safety Code sections 44012 and 44035,
28 and title 16, California Code of Regulations, section 3340.42.

1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the
2 Bureau's 1995 Chevrolet Impala SS in accordance with the Bureau's specifications.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

5 46. Respondent Hord's technician license is subject to disciplinary action pursuant to
6 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed a
7 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
8 certificate of compliance for the Bureau's 1995 Chevrolet Impala SS without performing a bona
9 fide inspection of the emission control devices and systems on the vehicle. This conduct thereby
10 deprived the People of the State of California of the protection afforded by the Motor Vehicle
11 Inspection Program.

12 **Undercover Operation #4: 1997 Chevrolet Astro Van**

13 47. On February 13, 2012, an undercover operator with the Bureau ("operator") took the
14 Bureau's 1997 Chevrolet Astro Van to Berkeley Smog Test Only Center located in Berkeley,
15 California, and requested a smog inspection from technician, Samer Elzein. The EVAP canister
16 had been removed from the Bureau-documented vehicle (the vehicle would not pass a California
17 smog check inspection in this condition). Samer Elzein performed the smog inspection. After the
18 inspection was completed, the operator paid \$69.95 and received a copy of an invoice and
19 estimate and a Vehicle Inspection Report (VIR). The VIR indicated that a smog inspection had
20 been performed on the vehicle by Samer Elzein at Respondent Minhas' facility and that the
21 vehicle had passed the inspection, resulting in the issuance of electronic smog Certificate of
22 Compliance Number OK457110C.

23 48. On February 24, 2012, the Bureau performed a smog inspection on the vehicle. The
24 vehicle failed the inspection due to a missing EVAP canister.

25 **SEVENTEENTH CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 49. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
28 and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a

1 statement which he knew or in the exercise of reasonable care should have known to be untrue or
2 misleading, as follows: Respondent Minhas' technician, Samer Elzein, certified under penalty of
3 perjury on the VIR that the Bureau's 1997 Chevrolet Astro Van had passed inspection and was in
4 compliance with applicable laws and regulations. In fact, the EVAP canister had been removed
5 from the vehicle and as such, the vehicle would not pass the inspection required by Health and
6 Safety Code section 44012.

7 **EIGHTEENTH CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 50. Respondent Minhas' registration is subject to disciplinary action pursuant to Business
10 and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
11 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1997
12 Chevrolet Astro Van when, in fact, a bona fide inspection had not been performed of the emission
13 control devices and systems on the vehicle, thereby depriving the People of the State of California
14 of the protection afforded by the Motor Vehicle Inspection Program.

15 **NINETEENTH CAUSE FOR DISCIPLINE**

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

17 51. Respondent Minhas' smog check station license is subject to disciplinary action
18 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent failed to
19 comply with provisions of that code, as follows:

20 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
21 performed on the Bureau's 1997 Chevrolet Astro Van in accordance with procedures prescribed
22 by the department.

23 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
24 the Bureau's 1997 Chevrolet Astro Van without ensuring that the vehicle was properly tested and
25 inspected to determine if it was in compliance with Health and Safety Code section 44012.

26 ///

27 ///

28 ///

1 **TWENTIETH CAUSE FOR DISCIPLINE**

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

3 52. Respondent Minhas' smog check station license is subject to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent failed to
5 comply with provisions of title 16, California Code of Regulations, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
7 electronic smog certificate of compliance for the Bureau's 1997 Chevrolet Astro Van without
8 ensuring that a bona fide inspection was performed of the emission control devices and systems
9 on the vehicle as required by health and Safety Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
11 of compliance for the Bureau's 1997 Chevrolet Astro Van even though the vehicle had not been
12 inspected in accordance with title 16, California Code of Regulations, section 3340.42.

13 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
14 conducted on the Bureau's 1997 Chevrolet Astro Van in accordance with the Bureau's
15 specifications.

16 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

17 **(Dishonesty Fraud or Deceit)**

18 53. Respondent Minhas' smog check station license is subject to disciplinary action
19 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
20 committed an act involving dishonesty, fraud, or deceit whereby another is injured by issuing an
21 electronic smog certificate of compliance for the Bureau's 1997 Chevrolet Astro Van when, in
22 fact, a bona fide inspection was not performed of the emission control devices and systems on the
23 vehicle, thereby depriving the People of the State of California of the protection afforded by the
24 Motor Vehicle Inspection Program.

25 ///

26 ///

27 ///

28

PRAYER

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

1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/11-66 and imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer No. ARD254780 issued to Gurjit Singh Minhas;

2. Revoking or suspending Automotive Repair Dealer No. ARD254780, issued to Gurjit Singh Minhas;

3. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/11-66 and imposing the disciplinary order that was stayed thereby revoking Smog Check Test Only Station Licence No. TC 254780 issued to Gurjit Singh Minhas;

4. Revoking or suspending Smog Check Test Only Station No. TC254780, issued to Gurjit Singh Minhas;

5. Revoking or suspending Advanced Emission Specialist Technician License No. EA 153387, issued to Daniel Richard Hord;

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

DATED: 8/27/12

John Wallauch by [Signature]
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant
DEUG BALATTI

SF2012900831
90254227

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

In the Matter of the Accusation Against:

BERKELEY SMOG TEST ONLY CENTER
GURJIT SINGH MINHAS, Owner
1010 Carleton Street #A
Berkeley, CA 94710

Automotive Repair Dealer Registration
No. ARD 254780
Smog Check, Test Only, Station License
No. TC 254780

Respondent.

Case No. 79/11-66

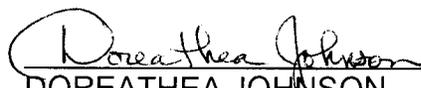
OAH No. 2011040938

DECISION

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

This Decision shall become effective 11/14/11.

DATED: October 5, 2011


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation Against:

Case No. 79/11-66

12 **BERKELEY SMOG TEST ONLY**
CENTER
13 **1010 Carleton Street #A**
Berkeley, CA 94710
14 **GURJIT SINGH MINHAS, OWNER**
Automotive Repair Dealer Registration No.
15 **ARD 254780**
Smog Check Test Only Station License No.
16 **TC 254780**

OAH No. 2011040938
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Respondent.
18

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

21 **PARTIES**

22
23 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
24 brought this action solely in her official capacity and is represented in this matter by Kamala D.
25 Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney
26 General.
27
28

1 his own expense; the right to confront and cross-examine the witnesses against him; the right to
2 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
3 the attendance of witnesses and the production of documents; the right to reconsideration and
4 court review of an adverse decision; and all other rights accorded by the California
5 Administrative Procedure Act and other applicable laws.

6 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
7 every right set forth above.

8 CULPABILITY

9 9. Respondent admits the truth of each and every charge and allegation in Accusation
10 No. 79/11-66.

11 10. Respondent agrees that his Automotive Repair Dealer Registration is subject to
12 discipline and he agrees to be bound by the Director's probationary terms as set forth in the
13 Disciplinary Order below.

14 CONTINGENCY

15 11. This stipulation shall be subject to approval by the Director of Consumer Affairs or
16 his designee. Respondent understands and agrees that counsel for Complainant and the staff of
17 the Bureau of Automotive Repair may communicate directly with the Director and staff of the
18 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
19 participation by Respondent or his counsel. By signing the stipulation, Respondent understands
20 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
21 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
22 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
23 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
24 and the Director shall not be disqualified from further action by having considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
26 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
27 effect as the originals.
28

1 in any other business required to be registered pursuant to Section 9884.6 of the Business and
2 Professions Code.

3 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
4 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

5 7. **Jurisdiction.** If an accusation is filed against Respondent during the term of
6 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
7 until the final decision on the accusation, and the period of probation shall be extended until such
8 decision.

9 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
10 Respondent has failed to comply with the terms and conditions of probation, the Department may,
11 after giving notice and opportunity to be heard temporarily or permanently invalidate the
12 Licenses.

13 9. **Restrictions.** During the period of probation, Respondent shall not perform any form
14 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,
15 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to
16 properly perform such work, and BAR has been given 10 days notice of the availability of the
17 equipment for inspection by a BAR representative.

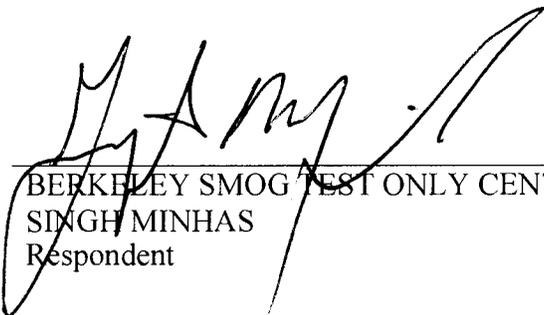
18 10. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery shall be
19 received no later than 6 months before probation terminates. Failure to complete payment of cost
20 recovery within this time frame shall constitute a violation of probation which may subject
21 Respondent's Licenses to outright revocation; however, the Director or the Director's Bureau of
22 Automotive Repair designee may elect to continue probation until such time as reimbursement of
23 the entire cost recovery amount has been made to the Bureau. Cost recovery shall be \$3,500.00.

24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
26 fully discussed it with my attorney, William Ferreira, Esq. I understand the stipulation and the
27 effect it will have on my Automotive Repair Dealer Registration, and Smog Check Test Only
28 Station License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,

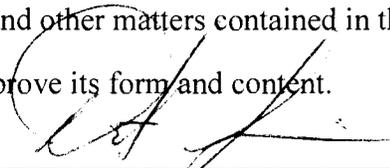
1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
2 Consumer Affairs.

3
4 DATED: 7/6/11


BERKELEY SMOG TEST ONLY CENTER; GURJIT
SINGH MINHAS
Respondent

7 I have read and fully discussed with Respondent Berkeley Smog Test Only Center; Gurjit
8 Singh Minhas the terms and conditions and other matters contained in the above Stipulated
9 Settlement and Disciplinary Order. I approve its form and content.

10 DATED: 6/29/11


William Ferreira, Esq.
Attorney for Respondent

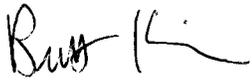
12 ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Director of Consumer Affairs.

15 Dated: ^{sept. 15} ~~June 24~~, 2011

16 Respectfully submitted,

17 KAMALA D. HARRIS
18 Attorney General of California
19 FRANK H. PACOE
20 Supervising Deputy Attorney General


21 BRETT A. KINGSBURY
22 Deputy Attorney General
23 *Attorneys for Complainant*

24
25 SF2010201740
26 20477034.doc

Exhibit A

Accusation No. 79/11-66

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/11-66

13 **BERKELEY SMOG TEST ONLY CENTER**
1010 Carleton Street # A
14 Berkeley, CA 94710
GURJIT SINGH MINHAS, OWNER
Automotive Repair Dealer Registration
15 No. ARD 254780
Smog Check Test Only Station License
16 No. TC 254780

ACCUSATION
SMOG CHECK

17 and

18 **PAO-CHOY SAELEE**
2462 Homestead Circle
19 Richmond, CA 94806
Advanced Emission Specialist Technician License
20 No. EA 152621

Respondents.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Sherry Mehl (Complainant) brings this Accusation solely in her official capacity as
25 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

26 **Automotive Repair Dealer Registration**

27 2. On or about May 8, 2008, the Bureau issued Automotive Repair Dealer Registration
28 Number ARD 254780 ("registration") to Gurjit Singh Minhas ("Respondent Berkeley") doing

1 business as Berkeley Smog Test Only Center. The registration was in full force and effect at all
2 times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

3 **Smog Check Test Only Station License**

4 3. On or about May 16, 2008, the Bureau issued Smog Check Test Only Station License
5 Number TC 254780 ("station license") to Respondent Berkeley. The station license was in full
6 force and effect at all times relevant to the charges brought herein and will expire on March 31,
7 2011, unless renewed.

8 **Advanced Emission Specialist Technician License**

9 4. On a date uncertain in 2006, the Bureau issued Advanced Emission Specialist
10 Technician License Number EA 152621 ("technician license") to Pao-Choy Saelee ("Respondent
11 Saelee"). The technician license was in full force and effect at all times relevant to the charges
12 brought herein and will expire on January 31, 2012, unless renewed.

13 **STATUTORY PROVISIONS**

14 5. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
15 part:

16 (a) The director, where the automotive repair dealer cannot show there
17 was a bona fide error, may refuse to validate, or may invalidate temporarily or
18 permanently, the registration of an automotive repair dealer for any of the following
19 acts or omissions related to the conduct of the business of the automotive repair
20 dealer, which are done by the automotive repair dealer or any automotive technician,
21 employee, partner, officer, or member of the automotive repair dealer.

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

25 (4) Any other conduct which constitutes fraud.

26 (b) Except as provided for in subdivision (c), if an automotive repair
27 dealer operates more than one place of business in this state, the director pursuant to
28 subdivision (a) shall only invalidate temporarily or permanently the registration of the
specific place of business which has violated any of the provisions of this chapter.
This violation, or action by the director, shall not affect in any manner the right of the
automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

1 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
2 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration
4 temporarily or permanently.

5 7. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
6 "commission," "committee," "department," "division," "examining committee," "program," and
7 "agency." "License" includes certificate, registration or other means to engage in a business or
8 profession regulated by the Code.

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

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

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

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

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

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

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

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

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

///

///

1 **COST RECOVERY**

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

6 **UNDERCOVER OPERATION – OCTOBER 29, 2009**

7 13. On or about October 29, 2009, a Bureau undercover operator (“operator”) drove a
8 Bureau-documented 1990 Mercury Sable to Respondent Berkeley’s facility and requested a smog
9 inspection. The vehicle could not pass the functional portion of a smog inspection because the
10 vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications. The operator
11 signed a work order and was provided with an estimate prior to the smog inspection. Respondent
12 Saelee performed the smog inspection and issued electronic Certificate of Compliance No.
13 NO199733 for that vehicle. Further, Respondent Saelee failed to perform a fuel cap integrity test
14 and LPFET test on that vehicle. The operator paid \$59.95 for the smog inspection and received a
15 copy of Invoice No. 0012690.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Misleading Statements)**

18 14. Respondent Berkeley has subjected his registration to discipline under Code section
19 9884.7, subdivision (a)(1), in that on or about October 29, 2009, he made statements which he
20 knew or which by exercise of reasonable care he should have known were untrue or misleading
21 when he issued electronic Certificate of Compliance No. NO199733 for the 1990 Mercury Sable,
22 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
23 the vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 15. Respondent Berkeley has subjected his registration to discipline under Code section
27 9884.7, subdivision (a)(4), in that on or about October 29, 2009, he committed acts which
28 constitute fraud by issuing electronic Certificate of Compliance No. NO199733 for the 1990

1 Mercury Sable, without performing a bona fide inspection of the emission control devices and
2 systems on that vehicle, thereby depriving the People of the State of California of the protection
3 afforded by the Motor Vehicle Inspection Program.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Violation of the Motor Vehicle Inspection Program)**

6 16. Respondent Berkeley has subjected his station license to discipline under Health and
7 Safety Code section 44072.2, subdivision (a), in that on or about October 29, 2009, regarding the
8 1990 Mercury Sable, he violated sections of that Code, as follows:

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

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

14 c. **Section 44015, subdivision (b):** Respondent Berkeley issued electronic Certificate
15 of Compliance No. NO199733 without properly testing and inspecting that vehicle to determine if
16 it was in compliance with section 44012 of that Code.

17 d. **Section 44059:** Respondent Berkeley willfully made false entries for the electronic
18 Certificate of Compliance No. NO199733, certifying that the vehicle had been inspected as
19 required when, in fact, it had not.

20 **FOURTH CAUSE FOR DISCIPLINE**

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

22 17. Respondent Berkeley has subjected his station license to discipline under Health and
23 Safety Code section 44072.2, subdivision (c), in that on or about October 29, 2009, regarding the
24 1990 Mercury Sable, he violated sections of the California Code of Regulations, title 16, as
25 follows:

26 a. **Section 3340.24, subdivision (c):** Respondent Berkeley falsely or fraudulently
27 issued electronic Certificate of Compliance No. NO199733 without performing a bona fide
28

1 inspection of the emission control devices and systems on that vehicle as required by Health and
2 Safety Code section 44012.

3 b. **Section 3340.35, subdivision (c):** Respondent Berkeley issued electronic Certificate
4 of Compliance No. NO199733 even though that vehicle had not been inspected in accordance
5 with section 3340.42 of that Code.

6 c. **Section 3340.42:** Respondent Berkeley failed to conduct the required smog tests and
7 inspections on that vehicle in accordance with the Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 18. Respondent Berkeley subjected his station license to discipline under Health and
11 Safety Code section 44072.2, subdivision (d), in that on or about October 29, 2009, regarding the
12 1990 Mercury Sable, he committed acts involving dishonesty, fraud or deceit whereby another
13 was injured by issuing electronic Certificate of Compliance No. NO199733 for that vehicle
14 without performing a bona fide inspection of the emission control devices and system on the
15 vehicle, thereby depriving the People of the State of California of the protection afforded by the
16 Motor Vehicle Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 19. Respondent Saelee has subjected his technician license to discipline under Health and
20 Safety Code section 44072.2, subdivision (a), in that on or about October 29, 2009, regarding the
21 1990 Mercury Sable, he violated sections of that Code, as follows:

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

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

27 c. **Section 44032:** Respondent Saelee failed to perform tests of the emission control
28 devices and systems on that vehicle in accordance with section 44012 of that Code.

1 d. **Section 44059:** Respondent Saelee willfully made false entries for electronic
2 Certificate of Compliance No. NO199733, certifying that the vehicle had been inspected as
3 required when, in fact, it had not.

4 **SEVENTH CAUSE FOR DISCIPLINE**

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

6 20. Respondent Saelee has subjected his technician license to discipline under Health and
7 Safety Code section 44072.2, subdivision (c), in that on or about October 29, 2009, regarding the
8 1990 Mercury Sable, he violated sections of the California Code of Regulations, title 16, as
9 follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Saelee falsely or fraudulently issued
11 electronic Certificate of Compliance No. NO199733 without performing a bona fide inspection of
12 the emission control devices and systems on that vehicle as required by Health and Safety Code
13 section 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Saelee failed to inspect and test that
15 vehicle in accordance with Health and Safety Code section 44012.

16 c. **Section 3340.41, subdivision (c):** Respondent Saelee entered false information into
17 the Emission Inspection System ("EIS") for electronic Certificate of Compliance No. NO199733
18 by entering "Pass" for both the ignition timing test and the fuel cap integrity test.

19 d. **Section 3340.42:** Respondent Saelee failed to conduct the required smog tests and
20 inspections on that vehicle in accordance with the Bureau's specifications.

21 **EIGHTH CAUSE FOR DISCIPLINE**

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

23 21. Respondent Saelee has subjected his technician license to discipline under Health and
24 Safety Code section 44072.2, subdivision (d), in that on or about October 29, 2009, regarding the
25 1990 Mercury Sable, he committed acts involving dishonesty, fraud or deceit whereby another
26 was injured by issuing electronic Certificate of Compliance No. NO199733 without performing a
27 bona fide inspection of the emission control devices and systems on that vehicle, thereby
28

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

3 **UNDERCOVER OPERATION – MARCH 10, 2010**

4 22. On or about March 10, 2010, a Bureau undercover operator (“operator”) drove a
5 Bureau-documented 1990 Honda Accord to Respondent Berkeley’s facility and requested a smog
6 inspection. The vehicle could not pass the functional portion of a smog inspection because the
7 vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications. The operator
8 signed a work order and was provided with an estimate prior to the smog inspection. Respondent
9 Saelee performed the smog inspection and issued electronic Certificate of Compliance No.
10 NQ941079 for that vehicle; however, Respondent Saelee failed to perform the fuel cap integrity
11 test and the LPFET test on that vehicle. The operator paid \$69.95 for the smog inspection and
12 received a copy of Invoice No. 0014556.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Misleading Statements)**

15 23. Respondent Berkeley has subjected his registration to discipline under Code section
16 9884.7, subdivision (a)(1), in that on or about March 10, 2010, he made statements which he
17 knew or which by exercise of reasonable care he should have known were untrue or misleading
18 when he issued electronic Certificate of Compliance No. NQ941079 for the 1990 Honda Accord,
19 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
20 the vehicle’s ignition timing was adjusted beyond the manufacturer’s specifications.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 24. Respondent Berkeley has subjected his registration to discipline under Code section
24 9884.7, subdivision (a)(4), in that on or about March 10, 2010, he committed acts which
25 constitute fraud by issuing electronic Certificate of Compliance No. NQ941079 for the 1990
26 Honda Accord, without performing a bona fide inspection of the emission control devices and
27 systems on that vehicle, thereby depriving the People of the State of California of the protection
28 afforded by the Motor Vehicle Inspection Program.

1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Violation of the Motor Vehicle Inspection Program)

3 25. Respondent Berkeley has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about March 10, 2010, regarding the
5 1990 Honda Accord, he violated sections of that Code, as follows:

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

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

11 c. **Section 44015, subdivision (b):** Respondent Berkeley issued electronic Certificate
12 of Compliance No. NQ941079 without properly testing and inspecting that vehicle to determine if
13 it was in compliance with section 44012 of that Code.

14 d. **Section 44059:** Respondent Berkeley willfully made false entries for the electronic
15 Certificate of Compliance No. NQ941079, certifying that the vehicle had been inspected as
16 required when, in fact, it had not.

17 TWELFTH CAUSE FOR DISCIPLINE

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

19 26. Respondent Berkeley has subjected his station license to discipline under Health and
20 Safety Code section 44072.2, subdivision (c), in that on or about March 10, 2010, regarding the
21 1990 Honda Accord, he violated sections of the California Code of Regulations, title 16, as
22 follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Berkeley falsely or fraudulently
24 issued electronic Certificate of Compliance No. NQ941079 without performing a bona fide
25 inspection of the emission control devices and systems on that vehicle as required by Health and
26 Safety Code section 44012.

27 ///

28 ///

1 d. **Section 44059:** Respondent Saelee willfully made false entries for electronic
2 Certificate of Compliance No. NQ941079, certifying that the vehicle had been inspected as
3 required when, in fact, it had not.

4 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent Saelee has subjected his technician license to discipline under Health and
7 Safety Code section 44072.2, subdivision (c), in that on or about March 10, 2010, regarding the
8 1990 Honda Accord, he violated sections of the California Code of Regulations, title 16, as
9 follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Saelee falsely or fraudulently issued
11 electronic Certificate of Compliance No. NQ941079 without performing a bona fide inspection of
12 the emission control devices and systems on that vehicle as required by Health and Safety Code
13 section 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Saelee failed to inspect and test that
15 vehicle in accordance with Health and Safety Code section 44012.

16 c. **Section 3340.41, subdivision (c):** Respondent Saelee entered false information into
17 the EIS for electronic Certificate of Compliance No. NQ941079 by entering "Pass" for the
18 ignition timing tests.

19 d. **Section 3340.42:** Respondent Saelee failed to conduct the required smog tests and
20 inspections on that vehicle in accordance with the Bureau's specifications.

21 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

23 30. Respondent Saelee has subjected his technician license to discipline under Health and
24 Safety Code section 44072.2, subdivision (d), in that on or about March 10, 2010, regarding the
25 1990 Honda Accord, he committed acts involving dishonesty, fraud or deceit whereby another
26 was injured by issuing electronic Certificate of Compliance No. NQ941079 without performing a
27 bona fide inspection of the emission control devices and systems on that vehicle, thereby
28

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

3 **OTHER MATTERS**

4 31. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
5 or permanently or refuse to validate, the registrations for all places of business operated in this
6 state by to Gurjit Singh Minhas doing business as Berkeley Smog Test Only Center, upon a
7 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and
8 regulations pertaining to an automotive repair dealer.

9 32. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
10 License Number TC 254780, issued to Gurjit Singh Minhas doing business as Berkeley Smog
11 Test Only Center, is revoked or suspended, any additional license issued under this chapter in the
12 name of said licensee may be likewise revoked or suspended by the director.

13 33. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
14 Technician License Number EA 152621, issued to Pao-Choy Saelee, is revoked or suspended,
15 any additional license issued under this chapter in the name of said licensee may be likewise
16 revoked or suspended by the director.

17 **PRAYER**

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

20 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
21 Registration Number ARD 254780, issued to Gurjit Singh Minhas doing business as Berkeley
22 Smog Test Only Center;

23 2. Revoking, suspending, or placing on probation any other automotive repair dealer
24 registration issued in the name Gurjit Singh Minhas doing business as Berkeley Smog Test Only
25 Center;

26 3. Revoking or suspending Smog Check Test Only Station License Number TC 254780,
27 issued to Gurjit Singh Minhas doing business as Berkeley Smog Test Only Center;

28

1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Gurjit Singh Minhas doing business as Berkeley Smog Test Only
3 Center;

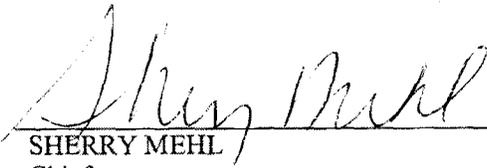
4 5. Revoking or suspending Advanced Emission Specialist Technician License Number
5 EA 152621, issued to Pao-Choy Saelee;

6 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
7 and Safety Code in the name of Pao-Choy Saelee;

8 7. Ordering Gurjit Singh Minhas and Pao-Choy Saelee to pay the Bureau of Automotive
9 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
10 Business and Professions Code section 125.3; and,

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

12
13
14 DATED: 2/1/00


15 _____
16 SHERRY MEHL
17 Chief
18 Bureau of Automotive Repair
19 Department of Consumer Affairs
20 State of California
21 Complainant

22
23
24
25
26
27 SF2010201740
28 10654784.doc