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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 Against:
12
13 **MILLBRAE TEST ONLY SMOG CENTER**
110 El Camino Real
14 Millbrae, CA 94030-2606
SHAHIN NAZARIAN, OWNER
15 **Automotive Repair Dealer Registration**
No. ARD 255465
16 **Smog Check Test Only Station License No. TC 255465**

17 **SHAHIN NAZARIAN**
120 Moore Court
18 San Bruno, CA 94066
Advanced Emission Specialist Technician License
19 No. EA 152011

20 Respondents.

Case No. 79/11-63

ACCUSATION
SMOG CHECK

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.

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1 subdivision (a) shall only suspend, revoke, or place on probation the registration of
2 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.

3 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
4 place on probation 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,
5 engaged in a course of repeated and willful violations of this chapter, or regulations
adopted pursuant to it.

6 6. Code section 9884.9, subdivision (a), states:

7 (a) The automotive repair dealer shall give to the customer a written
8 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
9 customer. No charge shall be made for work done or parts supplied in excess of the
10 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
11 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
12 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
13 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
14 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
15 do either of the following:

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

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

19 "I acknowledge notice and oral approval of an increase in the original
20 estimated price.

21 _____
22 (signature or initials)"

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

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

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

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Provide a Written Estimate)**

6 18. Respondent has subjected his registration to discipline under Code section 9884.7,
7 subdivision (a)(6), in that on or about February 1, 2010, he failed to comply with section 9884.9,
8 subdivision (a) by failing to provide the operator with a written estimated price for parts and labor
9 for a specific job.

10 **FIFTH CAUSE FOR DISCIPLINE**

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

12 19. Respondent has subjected his station license to discipline under Health and Safety
13 Code section 44072.2, subdivision (a), in that on or about February 1, 2010, regarding the 1993
14 Lexus SC300, he violated sections of that Code, as follows:

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

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

20 c. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
21 Compliance No. WH074212C without properly testing and inspecting the vehicle to determine if
22 it was in compliance with section 44012 of that Code.

23 d. **Section 44059:** Respondent willfully made false entries for the electronic Certificate
24 of Compliance No. WH074212C, certifying that the vehicle had been inspected as required when,
25 in fact, it had not.

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

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

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

8 d. **Section 44059:** Respondent willfully made false entries for electronic Certificate of
9 Compliance No. WH074212C, certifying that the vehicle had been inspected as required when, in
10 fact, it had not.

11 **NINTH CAUSE FOR DISCIPLINE**

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

13 23. Respondent has subjected his technician license to discipline under Health and Safety
14 Code section 44072.2, subdivision (c), in that on or about February 1, 2010, regarding the 1993
15 Lexus SC300, he violated sections of the California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
17 electronic Certificate of Compliance No. WH074212C without performing a bona fide inspection
18 of the emission control devices and systems on that vehicle as required by Health and Safety
19 Code section 44012.

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

22 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the
23 Emission Inspection System ("EIS") for electronic Certificate of Compliance No. WH074212C
24 by entering "Pass" for the ignition timing when, in fact, the vehicle's ignition timing was adjusted
25 beyond the manufacturer's specifications.

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

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1 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
2 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a
3 missing evaporative emission control system canister. The Bureau assessed a civil penalty of
4 \$2,000. Respondent complied with this citation on November 30, 2009.

5 d. On December 1, 2008, the Bureau issued Citation No. M09-0670 to Respondent
6 against his technician license for violations of Health and Safety Code section 44032, (qualified
7 technicians shall perform tests of emission control systems and devices in accordance with
8 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
9 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
10 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
11 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with missing air
12 injection components. Respondent was required to attend an 8-hour training course. Respondent
13 complied with this citation on January 31, 2009.

14 e. On May 15, 2009, the Bureau issued Citation No. M09-1316 to Respondent against
15 his technician license for violations of Health and Safety Code section 44032, (qualified
16 technicians shall perform tests of emission control systems and devices in accordance with
17 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
18 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
19 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
20 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with missing PCV
21 components. Respondent was required to attend a 16-hour training course. Respondent complied
22 with this citation on August 5, 2009.

23 f. On October 14, 2009, the Bureau issued Citation No. M2010-0358 to Respondent
24 against his technician license for violations of Health and Safety Code section 44032, (qualified
25 technicians shall perform tests of emission control systems and devices in accordance with
26 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
27 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
28 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section

1 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing
2 evaporative emission control system canister. Respondent was required to attend a 68-hour
3 training course. Respondent complied with this citation on November 30, 2009.

4 **OTHER MATTERS**

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

10 27. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
11 License Number TC 255465, issued to Shahin Nazarian doing business as Millbrae Test Only
12 Smog Center, is revoked or suspended, any additional license issued under this chapter in the
13 name of said licensee may be likewise revoked or suspended by the director.

14 28. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
15 Technician License Number EA 152011, issued to Shahin Nazarian is revoked or suspended, any
16 additional license issued under this chapter in the name of said licensee may be likewise revoked
17 or suspended by the director.

18 **PRAYER**

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

21 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration
22 Number ARD 255465, issued to Shahin Nazarian doing business as Millbrae Test Only Smog
23 Center;

24 2. Revoking, suspending or placing on probation any other automotive repair dealer
25 registration issued to Shahin Nazarian;

26 3. Revoking or suspending Smog Check Test Only Station License Number TC 255465,
27 issued to Shahin Nazarian doing business as Millbrae Test Only Smog Center;

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4. Revoking or suspending any additional license issued under Chapter 5 of the Health & Safety Code in the name of Shahin Nazarian;
5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 152011, issued to Shahin Nazarian;
6. Revoking or suspending any additional license issued under Chapter 5 of the Health & Safety Code in the name of Shahin Nazarian;
7. Ordering Shahin Nazarian to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
8. Taking such other and further action as deemed necessary and proper.

DATED: 1/25/11


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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