

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

In the Matter of the Accusation Against:

Case No. 79/12-18

A & Z SMOG TEST ONLY

ABE I. RABADI, Owner

5070 Etiwanda Avenue, Unit B

Mira Loma, CA 91752

Mailing Address:

P. O. Box 70435

Riverside, CA 92513

Automotive Repair Dealer Registration

No. ARD 261018

Smog Check, Test Only, Station License

No. TC 261018

CARLOS EDUARDO LEON MONDRAGON

10541 Arlington Avenue

Riverside, CA 92505

Advanced Emission Specialist Technician

License No. EA 631695

MICHAEL S. FLORES

4296 Sepulveda Avenue #215

San Bernardino, CA 92404

Advanced Emission specialist Technician

License No. EA 632244

SAMER GEORGE ZAIT

206 Euclid Avenue, #206

Long Beach, CA 90803

Advanced Emission Specialist Technician

License No. EA 152388

Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order Solely against Respondent Abe I. Rabadi, dba A&Z Smog Test Only, and dba Smog Stop Test Only is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Abe I. Rabadi, dba A & Z Smog Test Only, and dba Smog Stop Test Only, Automotive Repair Dealer Registration No. ARD 261018 and Smog Check, Test Only, Station License No. TC 261018.

This Decision shall become effective 2/6/12.

DATED: DEC 30 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
Deputy Attorney General
4 State Bar No. 149294
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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 Against:

Case No. 79/12-18

12 **A & Z SMOG TEST ONLY**
13 **5070 Etiwanda Avenue, Unit B**
14 **Mira Loma, CA 91752**
15 **Mailing Address:**
16 **P.O. Box 70435**
17 **Riverside, CA 92513**
18 **ABE I. RABADI, OWNER**
19 **Automotive Repair Dealer Registration**
20 **Number No.**
21 **ARD 261018**
22 **Smog Check Test Only Station License**
23 **No. TC 261018,**

24 **CARLOS EDUARDO LEON**
25 **MONDRAGON**
26 **10541 Arlington Avenue**
27 **Riverside, CA 92505**
28 **Advanced Emission Specialist Technician**
License No. EA 631695,

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Long Beach, CA 90803
Advanced Emission Specialist Technician
License No. EA 152388

Respondents

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER SOLELY
AGAINST RESPONDENT ABE I. RABADI,
D.B.A. A&Z SMOG TEST ONLY, AND
D.B.A. SMOG STOP TEST ONLY

1 In the interest of a prompt and speedy resolution of this matter, consistent with the public
2 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
3 Automotive Repair the parties hereby agree to the following Stipulated Settlement and
4 Disciplinary Order which will be submitted to the Director for his approval and adoption as the
5 final disposition of the Accusation solely with respect to Respondent Abe I. Rabadi doing
6 business as A&Z Smog Test Only and doing business as Smog Stop Test Only.

7 PARTIES

8 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
9 brought this action solely in her official capacity and is represented in this matter by Kamala D.
10 Harris, Attorney General of the State of California, by Loretta A. West, Deputy Attorney General.

11 2. Respondent Abe I. Rabadi, owner, (Respondent Rabadi), doing business as A & Z
12 Smog Test Only, is represented in this proceeding by attorney Scott W. Wellman, whose address
13 is 24411 Ridge Route, Suite 200, Laguna Hills, CA 92653.

14 3. On or about March 2, 2010, the Bureau of Automotive Repair issued Automotive
15 Repair Dealer Registration No. ARD 261018 to Respondent Rabadi doing business as A&Z
16 Smog Test Only. The Automotive Repair Dealer Registration was in full force and effect at all
17 times relevant to the charges brought in Accusation No. 79/12-18 and will expire on February 29,
18 2012, unless renewed.

19 4. On or about April 22, 2010, the Bureau of Automotive Repair issued Smog Check,
20 Test Only, Station License No. TC 261018 to Respondent Rabadi doing business as A&Z Smog
21 Test Only. The Smog Check, Test Only, Station License was in full force and effect at all times
22 relevant to the charges brought in Accusation No. 79/12-18 and will expire on February 29, 2012,
23 unless renewed.

24 5. On or about September 25, 2009, the Bureau of Automotive Repair issued
25 Automotive Repair Dealer Registration No. ARD 259545 to Respondent Rabadi doing business
26 as Smog Stop Test Only. The Automotive Repair Dealer Registration was in full force and effect

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1 at all times relevant to the charges brought in Accusation No. 79/12-18 and will expire on
2 September 30, 2012, unless renewed.

3 6. On or about September 29, 2009, the Bureau of Automotive Repair issued Smog
4 Check, Test Only, Station License No. TC 259545 to Respondent Rabadi doing business as Smog
5 Stop Test Only. The Smog Check, Test Only, Station License was in full force and effect at all
6 times relevant to the charges brought in Accusation No. 79/12-18 and will expire on
7 September 30, 2012, unless renewed.

8 JURISDICTION

9 7. On August 18, 2011, Accusation No. 79/12-18 was filed before the Director of
10 Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently
11 pending against Respondent Rabadi. The Accusation and all other statutorily required documents
12 were properly served on Respondent Rabadi on August 18, 2011. Respondent Rabadi timely
13 filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/12-18 is
14 attached as Exhibit A and incorporated by reference.

15 8. Automotive Repair Dealer Registration No. ARD 259545 issued to Respondent
16 Rabadi doing business as Smog Stop Test Only is not a Respondent in this matter but, is subject
17 to discipline pursuant to Business and Professions Code section 9884.7, subdivision (c), due to
18 the revocation of Automotive Repair Dealer Registration No. ARD 261018 issued to Respondent
19 Rabadi doing business as A & Z Smog Test Only.

20 9. Smog Check, Test Only, Station License No. TC 259545 issued to Respondent
21 Rabadi doing business as Smog Stop Test Only is not a Respondent in this matter but, is subject
22 to discipline pursuant to Health & Safety Code section 44072.8, due to the revocation of Smog
23 Check, Test Only, Station License No. TC 261018 issued to Respondent Rabadi doing business
24 as A & Z Smog Test Only.

25 ADVISEMENT AND WAIVERS

26 10. Respondent Rabadi has carefully read, fully discussed with counsel, and understands
27 the charges and allegations in Accusation No. 79/12-18. Respondent Rabadi also has carefully

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1 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
2 Disciplinary Order.

3 11. Respondent Rabadi is fully aware of his legal rights in this matter, including the right
4 to a hearing on the charges and allegations in the Accusation; the right to confront and cross-
5 examine the witnesses against him; the right to present evidence and to testify on his own behalf;
6 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
7 documents; the right to reconsideration and court review of an adverse decision; and all other
8 rights accorded by the California Administrative Procedure Act and other applicable laws.

9 12. Respondent Rabadi voluntarily, knowingly, and intelligently waives and gives up
10 each and every right set forth above.

11 CULPABILITY

12 13. Respondent understands and agrees that the charges and allegations in Accusation
13 No. 79/12-18, if proven at a hearing, constitute cause for imposing discipline upon his
14 Automotive Repair Dealer Registration Number 261018, Smog Check, Test Only, Station
15 License Number 261018, Automotive Repair Dealer Registration Number 259545, and Smog
16 Check, Test Only, Station License Number 259545.

17 14. For the purpose of resolving the Accusation without the expense and uncertainty of
18 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
19 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
20 those charges. All of the charges and allegations contained in the Accusation No. 79/12-18 shall
21 be deemed to be true, correct and admitted by Respondent Rabadi for the purposes of this
22 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
23 Automotive Repair, or other professional licensing agency is involved.

24 15. Respondent agrees that his Automotive Repair Dealer Registration Number
25 ARD 261018 is subject to discipline and he agrees to be bound by the Director's Disciplinary
26 Order below.

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1 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
2 and the Director shall not be disqualified from further action by having considered this matter.

3 21. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 22. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 23. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Director may, without further notice or formal proceeding, issue and enter the following
14 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration Number
17 ARD 261018, and Smog Check, Test Only, Station License Number. TC 261018 issued to Abe I.
18 Rabadi doing business as A&Z Smog Test Only is revoked.

19 IT IS FURTHER ORDERED that Automotive Repair Dealer Registration Number
20 ARD 259545 and Smog Check, Test Only, Station License Number TC 259545 issued to Abe I.
21 Rabadi doing business as Smog Stop Test Only (Respondent) is revoked. However, the
22 revocation is stayed and Respondent is placed on probation for three (3) years on the following
23 terms and conditions:

24 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
25 automotive inspections, estimates and repairs.

26 2. **Reporting.** Respondent or Respondent's authorized representative must report in
27 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the

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1 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
2 maintaining compliance with the terms and conditions of probation.

3 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
4 any financial interest which any partners, officers, or owners of the Respondent's facility may
5 have in any other business required to be registered pursuant to Section 9884.6 of the Business
6 and Professions Code.

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

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

13 6. **Cost Recovery.** Respondent Rabadi shall pay the Bureau its costs of investigation
14 and enforcement of this matter in the amount of \$9, 500.00 (nine thousand five hundred dollars).
15 Respondent Rabadi shall be permitted to pay these costs in a payment plan approved by the
16 Bureau, with payments to be completed no later than one (1) year before probation terminates.
17 Failure to complete payment of cost recovery within this time frame shall constitute a violation of
18 probation which may subject Respondent Rabadi's Automotive Repair Dealer Registration and
19 Smog Check, Test Only, Station License to outright revocation; however, the Director or the
20 Director's designee may elect to continue probation until such time as reimbursement of the
21 entire cost recovery amount has been made to the Bureau.

22 7. **Violation of Probation.** Should the Director of Consumer Affairs determine that
23 Respondent has failed to comply with the terms and conditions of probation, the Department may,
24 after giving notice and opportunity to be heard may set aside the stay order and impose the stayed
25 revocation of Respondent's Automotive Repair Registration Number ARD 259545 and Smog
26 Check, Test Only, License Number TC 259545. Upon successful completion of probation
27 Respondent's Automotive Repair Dealer Registration Number ARD 259545 and Smog Check,
28 Test Only Station License Number TC 259545 shall be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Scott W. Wellman. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration Number 261018, Smog Check, Test Only, Station License Number TC 261018, Automotive Repair Dealer Registration Number 259545, and Smog Check, Test Only, Station License Number TC 259545. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10/28/11



ABE I. RABADI, Sole Owner
D.B.A., A& Z SMOG TEST ONLY, AND,
D.B.A., SMOG STOP TEST ONLY
Respondent Rabadi

I have read and fully discussed with Respondent Abe I. Rabadi the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/28/11



SCOTT W. WELLMAN
Attorney for Respondent Abe I. Rabadi

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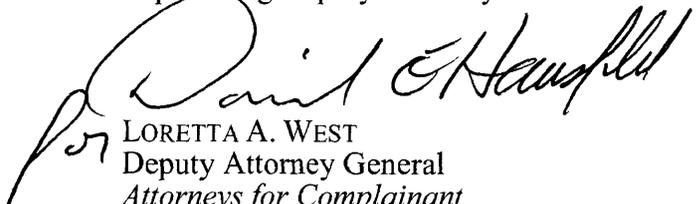
ENDORSEMENT

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

Dated: 12/14/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


LORETTA A. WEST
Deputy Attorney General
Attorneys for Complainant

Stipulation.rtf

Exhibit A

Accusation No. 79/12-18

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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3 LORETTA A. WEST
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Attorneys for Complainant

8
9 **BEFORE THE**
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. 79112-18

13 **A & Z SMOG TEST ONLY**
14 **5070 Etiwanda Avenue, Unit B**
Mira Loma, CA 91752
Mailing Address:
15 **P.O. Box 70435**
Riverside, CA 92513
16 **ABE I. RABADI, OWNER**
Automotive Repair Dealer Registration Number No.
17 **ARD 261018**
Smog Check Test Only Station License No. TC 261018,
18
19 **CARLOS EDUARDO LEON MONDRAGON**
10541 Arlington Avenue
Riverside, CA 92505
20 **Advanced Emission Specialist Technician License No. EA**
631695,
21
22 **MICHAEL S. FLORES**
4296 Sepulveda Avenue #215
San Bernardino, CA 92404
23 **Advanced Emission Specialist Technician License No. EA**
632244,
24
25 **SAMER GEORGE ZAIT**
206 Euclid Avenue, #206
Long Beach, CA 90803
26 **Advanced Emission Specialist Technician License No. EA**
152388
27

ACCUSATION
SMOG CHECK

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration**

6 2. On or about March 2, 2010, the Bureau issued Automotive Repair Dealer Registration
7 Number Number ARD 261018 ("registration") to Abe I. Rabadi ("Respondent A & Z Smog")
8 doing business as A & Z Smog Test Only. The registration was in full force and effect at all
9 times relevant to the charges brought herein and will expire on February 29, 2012, unless
10 renewed.

11 **Smog Check Test Only Station License**

12 3. On or about April 22, 2010, the Bureau issued Smog Check Test Only Station
13 License Number TC 261018 ("station license") to Respondent A & Z Smog. The station license
14 was in full force and effect at all times relevant to the charges brought herein and will expire on
15 February 29, 2012, unless renewed.

16 **Advanced Emission Specialist Technician License**

17 4. On or about January 25, 2010, the Bureau issued Advanced Emission Specialist
18 Technician License Number EA 631695 ("technician license") to Carlos Eduardo Leon
19 Mondragon ("Respondent Mondragon"). The technician license was in full force and effect at all
20 times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

21 **Advanced Emission Specialist Technician License**

22 5. On or about July 6, 2010, the Bureau issued Advanced Emission Specialist
23 Technician License Number EA 632244 ("technician license") to Michael S. Flores ("Respondent
24 Flores"). The technician license was in full force and effect at all times relevant to the charges
25 brought herein and will expire on January 31, 2012, unless renewed.

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1 authorizing the additional repairs and telephone number called, if any, together with a
2 specification of the additional parts and labor and the total additional cost, and shall
3 do either of the following:

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

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

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

11 _____
12 (signature or initials)"

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

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

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

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

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

28 (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.

(c) 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.

1 (f) Aids or abets unlicensed persons to evade the provisions of this
chapter.

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

6 14. Section 44072.8 of the Health and Safety Code states:

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

9 **COST RECOVERY**

10 15. Code section 125.3 provides, in pertinent part, that a 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.

14 **UNDERCOVER OPERATION NO. 1 – JANUARY 6, 2011**

15 16. On or about January 6, 2011, a Bureau undercover operator (“operator”) drove a
16 Bureau-documented 1997 Ford Taurus to Respondent A & Z Smog’s facility and requested a
17 smog inspection. The operator spoke with Respondent Zait and told him that his cousin Ramon
18 recommended the shop. The operator provided Respondent Zait with the paperwork for a
19 previously failed smog inspection and the vehicle registration. The operator asked Respondent
20 Zait if he could help him. Respondent Zait stated he could for \$100. The operator authorized the
21 smog inspection; however, he was not provided with a written estimate prior to the inspection.
22 Respondent Mondragon performed the smog inspection with the assistance of Respondent Zait,
23 who drove the vehicle onto the dynamometer and entered information into the Emission
24 Inspection System (“EIS”). That inspection resulted in the issuance of electronic Certificate of
25 Compliance No. WR350520, certifying that Respondent Mondragon had tested and inspected that
26 vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact,
27 Respondent Mondragon and Respondent Zait performed the smog inspection using the clean
28

1 piping method¹ by using the tail pipe emissions of a vehicle other than the vehicle being certified
2 in order to issue the electronic certificate of compliance. After the inspection was completed, the
3 operator paid Respondent Zait \$100 and was provided with a Vehicle Inspection Report (“VIR”)
4 and two copies of an unnumbered invoice.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Misleading Statements)**

7 17. Respondent A & Z Smog has subjected his registration to discipline under Code
8 section 9884.7, subdivision (a)(1), in that on or about January 6, 2011, he made statements which
9 he knew or which by exercise of reasonable care he should have known were untrue or
10 misleading when he issued electronic Certificate of Compliance No. WR350520 for the 1997
11 Ford Taurus, certifying that the vehicle was in compliance with applicable laws and regulations
12 when, in fact, the vehicle had been clean piped.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 18. Respondent A & Z Smog has subjected his registration to discipline under Code
16 section 9884.7, subdivision (a)(4), in that on or about January 6, 2011, he committed acts which
17 constitute fraud by issuing electronic Certificate of Compliance No. WR350520 for the 1997 Ford
18 Taurus without performing a bona fide inspection of the emission control devices and systems on
19 that vehicle, thereby depriving the People of the State of California of the protection afforded by
20 the Motor Vehicle Inspection Program.

21 **THIRD CAUSE FOR DISCIPLINE**

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

23 19. Respondent A & Z Smog has subjected his registration to discipline under Code
24 section 9884.7, subdivision (a)(6), in that on or about January 6, 2011, he failed to comply with
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26 ¹ “Clean piping” is sampling the (clean) tailpipe emissions and/or the RPM readings of
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
28 compliance or are not present in the smog check area during the time of the certification.

1 section 9884.9, subdivision (a). Respondent failed to provide the operator with a written
2 estimated price for a specific job regarding the smog inspection.

3 **FOURTH CAUSE FOR DISCIPLINE**

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

5 20. Respondent A & Z Smog has subjected his station license to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on or about January 6, 2011, regarding
7 the 1997 Ford Taurus, he violated sections of that Code, as follows:

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

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

13 c. **Section 44014, subdivision (a):** Respondent A & Z Smog allowed Respondent Zait
14 to participate in the inspection of that vehicle when Zait's technician license was expired.

15 d. **Section 44015, subdivision (b):** Respondent A & Z Smog issued electronic
16 Certificate of Compliance No. WR350520 without properly testing and inspecting that vehicle to
17 determine if it was in compliance with section 44012 of that Code.

18 e. **Section 44059:** Respondent A & Z Smog willfully made false entries for electronic
19 Certificate of Compliance No. WR350520 by certifying that the vehicle had been inspected as
20 required when, in fact, it had not.

21 **FIFTH CAUSE FOR DISCIPLINE**

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

23 21. Respondent A & Z Smog has subjected his station license to discipline under Health
24 and Safety Code section 44072.2, subdivision (c), in that on or about January 6, 2011, regarding
25 the 1997 Ford Taurus, he violated sections of the California Code of Regulations, title 16, as
26 follows:

27 a. **Section 3340.24, subdivision (c):** Respondent A & Z Smog falsely or fraudulently
28 issued electronic Certificate of Compliance No. WR350520 without performing a bona fide

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 A& Z Smog issued electronic
4 Certificate of Compliance No. WR350520 even though that vehicle had not been inspected in
5 accordance with section 3340.42 of that Code.

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

8 **SIXTH CAUSE FOR DISCIPLINE**

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

10 22. Respondent A & Z Smog has subjected his station license to discipline under Health
11 and Safety Code section 44072.2, subdivision (d), in that on or about January 6, 2011, regarding
12 the 1997 Ford Taurus, he committed acts involving dishonesty, fraud or deceit whereby another
13 was injured by issuing electronic Certificate of Compliance No. WR350520 for that vehicle
14 without performing a bona fide inspection of the emission control devices and systems 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 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Aiding and Abetting Unlicensed Activity)**

19 23. Respondent A & Z Smog has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (f), in that on or about January 6, 2011, regarding
21 the 1997 Ford Taurus, he aided and abetted Respondent Zait to evade the provisions of this
22 chapter by allowing him to participate in the smog inspection on that vehicle when Zait's
23 technician license was expired.

24 **EIGHTH CAUSE FOR DISCIPLINE**

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

26 24. Respondent Mondragon has subjected his technician license to discipline under
27 Health and Safety Code section 44072.2, subdivision (a), in that on or about January 6, 2011,
28 regarding the 1997 Ford Taurus, he violated sections of that Code, as follows:

1 a. **Section 44012, subdivision (a):** Respondent Mondragon failed to determine that all
2 emission 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 Mondragon failed to perform emission
5 control tests on that vehicle in accordance with procedures prescribed by the department.

6 c. **Section 44014, subdivision (a):** Respondent Mondragon allowed Respondent Zait to
7 participate in the inspection of the vehicle when Zait's technician license was expired.

8 d. **Section 44032:** Respondent Mondragon failed to perform tests of the emission
9 control devices and systems on that vehicle in accordance with section 44012 of that Code, in that
10 the vehicle had been clean piped.

11 e. **Section 44059:** Respondent Mondragon willfully made false entries for electronic
12 Certificate of Compliance No. WR350520 by certifying that the vehicle had been inspected as
13 required when, in fact, it had not.

14 **NINTH CAUSE FOR DISCIPLINE**

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

16 25. Respondent Mondragon has subjected his technician license to discipline under
17 Health and Safety Code section 44072.2, subdivision (c), in that on or about January 6, 2011,
18 regarding the 1997 Ford Taurus, he violated sections of the California Code of Regulations, title
19 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent Mondragon falsely or fraudulently
21 issued electronic Certificate of Compliance No. WR350520 without performing a bona fide
22 inspection of the emission control devices and systems on that vehicle as required by Health and
23 Safety Code section 44012.

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

26 c. **Section 3340.42:** Respondent Mondragon failed to conduct the required smog tests
27 and inspections on that vehicle in accordance with the Bureau's specifications.
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1 **TENTH CAUSE FOR DISCIPLINE**

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

3 26. Respondent Mondragon has subjected his technician license to discipline under
4 Health and Safety Code section 44072.2, subdivision (d), in that on or about January 6, 2011, he
5 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
6 electronic Certificate of Compliance No. WR350520 for the 1997 Ford Taurus without
7 performing a bona fide inspection of the emission control devices and systems on that vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting Unlicensed Activity)**

12 27. Respondent Mondragon has subjected his technician license to discipline under
13 Health and Safety Code section 44072.2, subdivision (f), in that on or about January 6, 2011,
14 regarding the 1997 Ford Taurus, he aided and abetted Respondent Zait to evade the provisions of
15 this chapter by allowing him to participate in the smog inspection on that vehicle when Zait's
16 technician license was expired.

17 **TWELFTH CAUSE FOR DISCIPLINE**

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

19 28. Respondent Zait has subjected his technician license to discipline under Health and
20 Safety Code section 44072.2, subdivision (a), in that on or about January 6, 2011, regarding the
21 1997 Ford Taurus, he violated sections of that Code, as follows:

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

27 c. **Section 44014, subdivision (a):** Respondent Zait participated in the smog inspection
28 on that vehicle when his technician license was expired.

1 d. **Section 44032:** Respondent Zait failed to perform tests of the emission control
2 devices and systems on that vehicle in accordance with section 44012 of that Code, in that the
3 vehicle had been clean piped.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent Zait has subjected his technician license to discipline under Health and
7 Safety Code section 44072.2, subdivision (c), in that on or about January 6, 2011, regarding the
8 1997 Ford Taurus, he violated sections of the California Code of Regulations, title 16, as follows:

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

11 b. **Section 3340.41, subdivision (c):** Respondent Zait entered false information into the
12 EIS for electronic Certificate of Compliance No. WR350520 by entering vehicle emission control
13 information for a vehicle other than the vehicle being certified.

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

16 **UNDERCOVER OPERATION NO. 2 – MARCH 8, 2011**

17 30. On or about March 8, 2011, the Bureau planned to perform a second undercover
18 operation at Respondent A & Z Smog's facility. The undercover operator drove the vehicle to
19 Respondent A & Z Smog for a smog inspection. The operator spoke with Respondent Zait. The
20 operator provided Respondent Zait with a VIR from a previously failed smog inspection.
21 Respondent Zait informed the operator that the smog inspection would cost \$100 but that the
22 vehicle would have to be inspected at another of his facilities because he had too many vehicles.
23 The operator paid Respondent Zait \$100 and drove the vehicle to Amigo Smog's facility also
24 located in Mira Loma, California, where the smog inspection was performed.

25 **UNDERCOVER OPERATION NO. 3 – APRIL 22, 2011**

26 31. On or about April 22, 2011, a Bureau undercover operator ("operator") drove a
27 Bureau-documented 1986 Chevrolet Monte Carlo to Respondent A & Z Smog's facility and
28 requested a smog inspection. The vehicle could not pass a smog inspection due to excessive

1 tailpipe emissions. Further, the vehicle had a faulty bulb in the malfunction indicator light socket
2 that would further keep the vehicle from passing the MIL functional check. The operator spoke
3 with a Middle Eastern male, who asked the operator if the vehicle was alright. The operator told
4 him he did not know. The operator then spoke with another male named Roberto, who wanted to
5 know whether or not the vehicle had been tested at another facility. The operator told him no.
6 Robert then informed the operator that the smog inspection would cost \$100. Roberto also stated
7 to the operator: "Trust me, it will be okay". The operator paid Roberto \$100 but did not receive
8 any paperwork. While the vehicle was being tested, the operator asked Roberto if he was the
9 owner of the facility. Roberto said he was not, but pointed to a middle-eastern male, later
10 identified as Respondent Zait, and told the operator that he was the owner. After the inspection
11 was completed, Roberto provided the operator with the pink and yellow copies of an unnumbered
12 invoice that indicated the operator paid \$40 for the smog inspection, and a VIR. The paperwork
13 had been filled out and signed; however, not by the operator. The VIR indicated that Respondent
14 Flores performed the smog inspection; however, another licensed technician, Samer Ibrahim
15 Alhsinat, drove the undercover vehicle onto the dynamometer. Respondent Flores issued
16 electronic Certificate of Compliance No. WV075817, certifying that he had tested and inspected
17 that vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact,
18 the smog inspection was performed using the clean piping method by using the tail pipe
19 emissions of a vehicle other than the vehicle being certified in order to issue the electronic
20 certificate of compliance. The Bureau also discovered that a low pressure fuel evaporative
21 functional test had not been performed.

FOURTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

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24 32. Respondent A & Z Smog has subjected his registration to discipline under Code
25 section 9884.7, subdivision (a)(1), in that on or about April 22, 2011, he made statements which
26 he knew or which by exercise of reasonable care he should have known were untrue or
27 misleading when he issued electronic Certificate of Compliance No. WV075817 for the 1986
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1 Chevrolet Monte Carlo, certifying that the vehicle was in compliance with applicable laws and
2 regulations when, in fact, the vehicle had been clean piped.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 33. Respondent A & Z Smog has subjected his registration to discipline under Code
6 section 9884.7, subdivision (a)(4), in that on or about April 22, 2011, he committed acts which
7 constitute fraud by issuing electronic Certificate of Compliance No. WV075817 for the 1986
8 Chevrolet Monte Carlo without performing a bona fide inspection of the emission control devices
9 and systems on that vehicle, thereby depriving the People of the State of California of the
10 protection afforded by the Motor Vehicle Inspection Program.

11 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

13 34. Respondent A & Z Smog has subjected his registration to discipline under Code
14 section 9884.7, subdivision (a)(6), in that on or about April 22, 2011, he failed to comply with
15 section 9884.9, subdivision (a). Respondent A & Z Smog failed to provide the operator with a
16 written estimated price for a specific job regarding the smog inspection.

17 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

19 35. Respondent A & Z Smog has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (a), in that on or about April 22, 2011, regarding
21 the 1986 Chevrolet Monte Carlo, he violated sections of that Code, as follows:

22 a. **Section 44012, subdivision (a):** Respondent A & Z Smog 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 A & Z Smog failed to perform emission
26 control tests on that vehicle in accordance with procedures prescribed by the department.

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1 systems on the vehicle, thereby depriving the People of the State of California of the protection
2 afforded by the Motor Vehicle Inspection Program.

3 **TWENTIETH CAUSE FOR DISCIPLINE**

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

5 38. Respondent Flores has subjected his technician license to discipline under Health and
6 Safety Code section 44072.2, subdivision (a), in that on or about April 22, 2011, regarding the
7 1986 Chevrolet Monte Carlo, he violated sections of that Code, as follows:

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

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

13 c. **Section 44032:** Respondent Flores failed to perform tests of the emission control
14 devices and systems on that vehicle in accordance with section 44012 of that Code, in that the
15 vehicle had been clean piped.

16 d. **Section 44059:** Respondent Flores willfully made false entries for electronic
17 Certificate of Compliance No. WV075817 by certifying that the vehicle had been inspected as
18 required when, in fact, it had not.

19 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

21 39. Respondent Flores has subjected his technician license to discipline under Health and
22 Safety Code section 44072.2, subdivision (c), in that on or about April 22, 2011, regarding the
23 1986 Chevrolet Monte Carlo, he violated sections of the California Code of Regulations, title 16,
24 as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Flores falsely or fraudulently issued
26 electronic Certificate of Compliance No. WV075817 without performing a bona fide inspection
27 of the emission control devices and systems on that vehicle as required by Health and Safety
28 Code section 44012.

1 compliance), both misdemeanors. As a result of this conviction, the Court sentenced Respondent
2 Zait to summary probation for a period of 36 months; to the custody of the Riverside County
3 Sheriff for a term of 120 days, with 20 days credit for time served; and, fines totaling \$330.
4 Respondent Zait was still on probation in the criminal matter when the allegations set forth in
5 paragraphs 28 and 29 occurred.

6 **OTHER MATTERS**

7 42. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
8 or may invalidate temporarily or permanently, the registrations for all places of business operated
9 in this state by Abe I. Rabadi upon a finding that he has, or is, engaged in a course of repeated
10 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

11 43. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
12 License Number TC 261018, issued to Abe I. Rabadi doing business as A & Z Smog Test Only,
13 is revoked or suspended, any additional license issued under this chapter in the name of said
14 licensee may be likewise revoked or suspended by the director.

15 44. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
16 Technician License Number EA 631695, issued to Carlos Eduardo Leon Mondragon, is revoked
17 or suspended, any additional license issued under this chapter in the name of said licensee may be
18 likewise revoked or suspended by the director.

19 45. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
20 Technician License Number EA 632244, issued to Michael S. Flores, is revoked or suspended,
21 any additional license issued under this chapter in the name of said licensee may be likewise
22 revoked or suspended by the director.

23 46. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
24 Technician License Number EA 152388, issued to Samer George Zait, is revoked or suspended,
25 any additional license issued under this chapter in the name of said licensee may be likewise
26 revoked or suspended by the director.

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PRAYER

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

1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration Number ARD 261018, issued to Abe I. Rabadi doing business as A & Z Smog Test Only;

2. Revoking, suspending or placing on probation any other automotive repair dealer registration issued to Abe I. Rabadi;

3. Revoking or suspending Smog Check Test Only Station License Number TC 261018, issued to Abe I. Rabadi doing business as A & Z Smog Test Only;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name Abe I. Rabadi;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 631695, issued to Carlos Eduardo Leon Mondragon;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Carlos Eduardo Leon Mondragon;

7. Revoking or suspending Advanced Emission Specialist Technician License Number EA 632244, issued to Michael S. Flores;

8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Michael S. Flores;

9. Revoking or suspending Advanced Emission Specialist Technician License Number EA 152388, issued to Samer George Zait;

10. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Samer George Zait;

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11. Ordering Abe I. Rabadi, Carlos Eduardo Leon Mondragon, Michael S. Flores and Samer George Zait 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,

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

DATED: 8/7/11


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

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