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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:
13 **VALLEY SMOG;**
14 **DAVINDER SINGH BRAR, OWNER**
15 **1017 Bear Mountain Blvd.**
16 **Arvin, CA 93203**

17 **Automotive Repair Dealer Registration No.**
18 **ARD 264331**
19 **Smog Check Test Only Station License No.**
20 **TC 264331,**

21 **and**

22 **DAVINDER SINGH BRAR**
23 **1016 Waynesborough Ct.**
24 **Bakersfield, CA 93307**

25 **Smog Check Inspector License No. EO**
26 **150614**
27 **Smog Check Repair Technician License No.**
28 **EI 150614**
(Formerly Advanced Emission Specialist
Technician License No. EA 150614)

Respondents.

Case No. *79/16-27*

A C C U S A T I O N
S M O G C H E C K

Complainant alleges:

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1 **PARTIES**

2 1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity
3 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

4 2. On or about March 11, 2011, the Bureau issued Automotive Repair Dealer
5 Registration Number ARD 264331 (“registration”) to Davinder Singh Brar (“Respondent Brar”),
6 doing business as Valley Smog. The registration was in full force and effect at all times relevant
7 to the charges brought herein and will expire on March 31, 2016, unless renewed.

8 3. On or about March 18, 2011, the Bureau issued Smog Check Test Only Station
9 License Number TC 264331 (“station license”) to Respondent Brar. The station license was in
10 full force and effect at all times relevant to the charges brought herein and will expire on March
11 31, 2016, unless renewed.

12 4. In or about 2004, the Bureau issued Advanced Emission Specialist Technician
13 License Number EA 150614 (“technician license”) to Respondent Brar. The technician license
14 expired on July 31, 2012 and was cancelled on August 15, 2012 and re-designated upon renewal,
15 at Respondent Brar’s election, as Smog Check Inspector License Number EO 150614 and Smog
16 Check Repair Technician License Number EI 150614, effective August 15, 2012.¹ The Smog
17 Check Inspector and Smog Check Repair Technician licenses were in full force and effect at all
18 times relevant to the charges brought herein and will expire on July 31, 2016, unless renewed.

19 **STATUTORY PROVISIONS**

20 5. Section 9884.7 of the Business and Professions Code (“Code”) states, in pertinent
21 part:

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

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

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

3 ...

4 (4) Any other conduct that constitutes fraud.

5 ...

6 (b) Except as provided for in subdivision (c), if an automotive repair
dealer operates more than one place of business in this state, the director pursuant to
7 subdivision (a) shall only suspend, revoke, or place on probation the registration of
the specific place of business which has violated any of the provisions of this chapter.
8 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.

9 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
place on probation the registration for all places of business operated in this state by
10 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
11 adopted pursuant to it.

12 6. Code section 118, subdivision (b) states:

13 The suspension, expiration, or forfeiture by operation of law of a license
issued by a board in the department, or its suspension, forfeiture, or cancellation by
14 order of the board or by order of a court of law, or its surrender without the written
consent of the board, shall not, during any period in which it may be renewed,
15 restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
16 law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

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18 7. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
19 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
20 proceeding against an automotive repair dealer or to render a decision invalidating a registration
temporarily or permanently.
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22 8. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
23 "commission," "committee," "department," "division," "examining committee," "program," and
24 "agency." "License" includes certificate, registration or other means to engage in a business or
25 profession regulated by the Code.

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

1 and has all the required emission control equipment and devices installed and functioning
2 correctly.”

3 16. CCR section 3340.41, subdivision (c) states:

4 “No person shall enter into the emissions inspection system any vehicle identification
5 information or emission control system identification data for any vehicle other than the one
6 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
7 information about the vehicle being tested.”

8 17. CCR section 3340.42 provides that licensed smog check stations and technicians shall
9 conduct tests and inspections in accordance with BAR97 specifications referenced in CCR
10 section 3340.17.

11 18. CCR section 3340.45 states:

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

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

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

18 19. CCR section 3373 states:

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

24 COST RECOVERY

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

1 **FIRST UNDERCOVER OPERATION – MARCH 20, 2014**

2 21. On or about March 20, 2014, a Bureau undercover operator drove a Bureau-
3 documented 1990 Honda to Respondent Brar’s facility and requested a smog inspection. The
4 vehicle could not pass the functional portion of a smog inspection due to a gross leak within the
5 vehicle’s fuel evaporation system. The operator was not provided with an estimate. After the
6 inspection was completed, the operator paid Respondent \$60.00 and received a Vehicle
7 Inspection Report (VIR). The operator did not receive an invoice for the transaction. The VIR
8 shows that Respondent Brar performed the smog inspection and issued electronic Certificate of
9 Compliance No. [REDACTED] for the 1990 Honda.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Misleading Statements)**

12 22. Respondent Brar has subjected his registration to discipline under Code section
13 9884.7, subdivision (a)(1), in that on or about March 20, 2014, he made statements which he
14 knew or which by exercise of reasonable care he should have known were untrue or misleading
15 when he issued electronic Certificate of Compliance No. [REDACTED] for the 1990 Honda,
16 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
17 the vehicle had a gross leak within its fuel evaporation system. Complainant hereby incorporates
18 all the allegations contained in paragraph 21, as though set forth fully.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 23. Respondent Brar has subjected his registration to discipline under Code section
22 9884.7, subdivision (a)(4), in that on or about March 20, 2014, he committed acts which
23 constitute fraud by issuing electronic Certificate of Compliance No. [REDACTED] for the 1990
24 Honda without performing a bona fide inspection of the emission control devices and systems on
25 that vehicle, thereby depriving the People of the State of California of the protection afforded by
26 the Motor Vehicle Inspection Program. Complainant hereby incorporates all the allegations
27 contained in paragraph 21, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 24. Respondent Brar has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about March 20, 2014, regarding the
5 1990 Honda, he violated sections of that Code, as follows:

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

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

14 d. **Section 44032:** Respondent Brar failed to perform the inspection in accordance with
15 section 44012.

16 Complainant hereby incorporates all the allegations contained in paragraph 21, as though
17 set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 25. Respondent Brar has subjected his station license to discipline under Health and
21 Safety Code section 44072.2, subdivision (c), in that on or about March 20, 2014, regarding the
22 1990 Honda, he violated sections of the California Code of Regulations, title 16, as follows:

23 a. **Section 3340.30, subdivision (a):** Respondent Brar failed to inspect, test, and repair
24 the vehicle in accordance with sections 44012 and 44035 of the Health and Safety Code and
25 section 3340.42 of the California Code of Regulations.

26 b. **Section 3340.35, subdivision (c):** Respondent Brar issued electronic Certificate of
27 Compliance No. [REDACTED] even though that vehicle had not been inspected in accordance with
28 section 3340.42 of that Code.

1 c. **Section 3340.41, subdivision (c):** Respondent Brar knowingly entered into the test
2 analyzer system false information about the vehicle being tested.

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

5 e. **Section 3373:** Respondent Brar created a false and misleading record by issuing the
6 vehicle a certificate of compliance.

7 Complainant hereby incorporates all the allegations contained in paragraph 21, as though
8 set forth fully.

9 **FIFTH CAUSE FOR DISCIPLINE**

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

11 26. Respondent Brar subjected his station license discipline under Health and Safety
12 Code section 44072.2, subdivision (d), in that on or about March 20, 2014, he committed acts
13 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
14 Certificate of Compliance No. [REDACTED] for the 1990 Honda without performing a bona fide
15 inspection of the emission control devices and systems on the vehicle, thereby depriving the
16 People of the State of California of the protection afforded by the Motor Vehicle Inspection
17 Program. Complainant hereby incorporates all the allegations contained in paragraph 21, as
18 though set forth fully.

19 **SIXTH CAUSE FOR DISCIPLINE**

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

21 27. Respondent Brar has subjected his smog check inspector license and smog check
22 repair technician license to discipline under Health and Safety Code section 44072.2, subdivision
23 (a), in that on or about March 20, 2014, regarding the 1990 Honda, he violated sections of that
24 Code, as follows:

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

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1 Complainant hereby incorporates all the allegations contained in paragraph 21, as though
2 set forth fully.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 29. Respondent Brar subjected his smog check inspector license and smog check repair
6 technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in
7 that on or about March 20, 2014, he committed acts involving dishonesty, fraud or deceit
8 whereby another was injured by issuing electronic Certificate of Compliance No. [REDACTED] for
9 the 1990 Honda without performing a bona fide inspection of the emission control devices and
10 systems on the vehicle, thereby depriving the People of the State of California of the protection
11 afforded by the Motor Vehicle Inspection Program. Complainant hereby incorporates all the
12 allegations contained in paragraph 21, as though set forth fully.

13 **SECOND UNDERCOVER OPERATION – MARCH 20, 2014**

14 30. On or about March 20, 2014, a Bureau undercover operator drove a Bureau-
15 documented 1992 Toyota to Respondent Brar's facility and requested a smog inspection. The
16 vehicle could not pass the functional portion of a smog inspection due to a defective fuel tank
17 vapor hose which had a hole in it. The operator was not provided with an estimate. After the
18 inspection was completed, the operator paid Respondent \$50.00 and received a Vehicle
19 Inspection Report (VIR). The operator did not receive an invoice for the transaction. The VIR
20 shows that Respondent Brar performed the smog inspection and issued electronic Certificate of
21 Compliance No. [REDACTED] for the 1992 Toyota.

22 **NINTH CAUSE FOR DISCIPLINE**

23 **(Misleading Statements)**

24 31. Respondent Brar has subjected his registration to discipline under Code section
25 9884.7, subdivision (a)(1), in that on or about March 20, 2014, he made statements which he
26 knew or which by exercise of reasonable care he should have known were untrue or misleading
27 when he issued electronic Certificate of Compliance No. [REDACTED] for the 1992 Toyota,
28 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,

1 the vehicle had a defective fuel tank vapor hose which had a hole in it. Complainant hereby
2 incorporates all the allegations contained in paragraph 30, as though set forth fully.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 32. Respondent Brar has subjected his registration to discipline under Code section
6 9884.7, subdivision (a)(4), in that on or about March 20, 2014, he committed acts which
7 constitute fraud by issuing electronic Certificate of Compliance No. [REDACTED] for the 1992
8 Toyota without performing a bona fide inspection of the emission control devices and systems on
9 that vehicle, thereby depriving the People of the State of California of the protection afforded by
10 the Motor Vehicle Inspection Program. Complainant hereby incorporates all the allegations
11 contained in paragraph 30, as though set forth fully.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

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

14 33. Respondent Brar has subjected his station license to discipline under Health and
15 Safety Code section 44072.2, subdivision (a), in that on or about March 20, 2014, regarding the
16 1992 Toyota, he violated sections of that Code, as follows:

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

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

22 c. **Section 44015, subdivision (b):** Respondent Brar issued electronic Certificate of
23 Compliance No. [REDACTED] without properly testing and inspecting that vehicle to determine if
24 it was in compliance with section 44012 of that Code.

25 d. **Section 44032:** Respondent Brar failed to perform the inspection in accordance with
26 section 44012.

27 Complainant hereby incorporates all the allegations contained in paragraph 30, as though
28 set forth fully.

1 **TWELFTH CAUSE FOR DISCIPLINE**

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

3 34. Respondent Brar has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (c), in that on or about March 20, 2014, regarding the
5 1992 Toyota, he violated sections of the California Code of Regulations, title 16, as follows:

6 a. **Section 3340.30, subdivision (a):** Respondent Brar failed to inspect, test, and repair
7 the vehicle in accordance with sections 44012 and 44035 of the Health and Safety Code and
8 section 3340.42 of the California Code of Regulations.

9 b. **Section 3340.35, subdivision (c):** Respondent Brar issued electronic Certificate of
10 Compliance No. [REDACTED] even though that vehicle had not been inspected in accordance with
11 section 3340.42 of that Code.

12 c. **Section 3340.41, subdivision (c):** Respondent Brar knowingly entered into the test
13 analyzer system false information about the vehicle being tested.

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

16 e. **Section 3373:** Respondent Brar created a false and misleading record by issuing the
17 vehicle a certificate of compliance.

18 Complainant hereby incorporates all the allegations contained in paragraph 30, as though
19 set forth fully.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

22 35. Respondent Brar subjected his station license to discipline under Health and Safety
23 Code section 44072.2, subdivision (d), in that on or about March 20, 2014, he committed acts
24 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
25 Certificate of Compliance No. [REDACTED] for the 1992 Toyota without performing a bona fide
26 inspection of the emission control devices and systems on the vehicle, thereby depriving the
27 People of the State of California of the protection afforded by the Motor Vehicle Inspection
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1 Program. Complainant hereby incorporates all the allegations contained in paragraph 30, as
2 though set forth fully.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 36. Respondent Brar has subjected his smog check inspector license and smog check
6 repair technician license to discipline under Health and Safety Code section 44072.2, subdivision
7 (a), in that on or about March 20, 2014, regarding the 1992 Toyota, he violated sections of that
8 Code, as follows:

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

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

17 d. **Section 44032:** Respondent Brar failed to perform the inspection in accordance with
18 section 44012.

19 Complainant hereby incorporates all the allegations contained in paragraph 30, as though
20 set forth fully.

21 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

23 37. Respondent Brar has subjected his smog check inspector license and smog check
24 repair technician license to discipline under Health and Safety Code section 44072.2, subdivision
25 (c), in that on or about March 20, 2014, regarding the 1992 Toyota, he violated sections of the
26 California Code of Regulations, title 16, as follows:

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1 a. **Section 3340.30, subdivision (a):** Respondent Brar failed to inspect, test, and repair
2 the vehicle in accordance with sections 44012 and 44035 of the Health and Safety Code and
3 section 3340.42 of the California Code of Regulations.

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

7 c. **Section 3340.41, subdivision (c):** Respondent Brar knowingly entered into the test
8 analyzer system false information about the vehicle being tested.

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

11 e. **Section 3373:** Respondent Brar created a false and misleading record by issuing the
12 vehicle a certificate of compliance.

13 Complainant hereby incorporates all the allegations contained in paragraph 30, as though
14 set forth fully.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

17 38. Respondent Brar subjected his smog check inspector license and smog check repair
18 technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in
19 that on or about March 20, 2014, he committed acts involving dishonesty, fraud or deceit
20 whereby another was injured by issuing electronic Certificate of Compliance No. [REDACTED] for
21 the 1992 Toyota without performing a bona fide inspection of the emission control devices and
22 systems on the vehicle, thereby depriving the People of the State of California of the protection
23 afforded by the Motor Vehicle Inspection Program. Complainant hereby incorporates all the
24 allegations contained in paragraph 30, as though set forth fully.

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VEHICLE INFORMATION DATABASE REVIEW – MAY 19, 2015

39. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring the use of the On Board Diagnostic Inspection System (OIS) instead of the Emission Inspection System (EIS) for testing of 2000 model year and newer gas powered vehicles 14,000 Gross Vehicle Weight Rating and under. Bureau licensees were advised numerous times about the implementation of the new testing requirements. The Vehicle Information Database (VID) revealed that on October 17, 2014, Respondent Brar registered an OIS.

40. On or about May 19, 2015, Bureau Representative Albert J. Copeland conducted a review of the VID which revealed that Respondent issued twenty-four (24) Certificates of Compliance utilizing the EIS when an OIS test was required. The following chart illustrates the improper certification of those vehicles:

Test Date	Vehicle Certified & License No.	Certificate No.	Details
03/09/2015	2005 GMC Sierra DPG6334	YP376462C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2007 Honda Accord 5ZMA696	YP376463C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2005 Acura TSX 6ZQT806	YP376464C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2003 Honda Accord 6WGP3305	YP376465C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2005 Nissan Sentra 6BBJ115	YP376467C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2004 Toyota Tacoma 8X87043	YP376468C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.

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03/09/2015	2007 Cadillac Escalade 6ESW752	YP376469C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2005 Nissan Altima 6WZT264	YP376470C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2007 Toyota Corolla 5YZW320	YP376471C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2002 GMC C1500 Yukon 5WHS778	YP376472C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2003 BMW Z4 Coupe 5TSG105	YP376473C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2002 Chevrolet Silverado 1500 72886N1	YP376474C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2001 Dodge Caravan 4SRD777	YP376475C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/09/2015	2002 GMC Envoy 5YDS131	YP376477C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/10/2015	2007 Dodge Caravan 6RY1717	YP376479C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/10/2015	2005 Honda Accord 5MQH077	YP376480C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
03/10/2015	2007 Chevrolet Impala 5ZKD887	YP376482C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.

1	03/10/2015	2009 Chevrolet Silverado 1500 8T68789	YP376483C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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3	03/10/2015	2006 Chevrolet Suburban 1500 6ZPH308	YP376484C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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6	03/10/2015	2007 Nissan Sentra 5YJU885	YP376486C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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9	03/10/2015	2004 Toyota Tundra 7K28542	YP376488C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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11	03/11/2015	2003 Chevrolet Suburban 1500 4YJD872	YP376490C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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14	03/11/2015	2000 Ford Crown Victoria 6CIJ919	YP376491C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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16	03/11/2015	2000 Jeep Grand Cherokee 4KYU541	YP376492C	Certificate of Compliance issued utilizing BAR97 EIS instead of the required OIS.
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SEVENTEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

41. Respondent Brar has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that relating to the certification of the vehicles listed in paragraph 40, above, he violated sections of that Code, as follows:

a. **Section 44012:** Respondent Brar failed to ensure that emission control tests were performed in accordance with procedures prescribed by the department.

d. **Section 44032:** Respondent Brar failed to perform inspections of the vehicles in accordance with section 44012.

1 Complainant hereby incorporates all the allegations contained in paragraphs 39 and 40, as
2 though set forth fully.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

5 42. Respondent Brar has subjected his station license to discipline under Health and
6 Safety Code section 44072.2, subdivision (c), in that relating to the certification of the vehicles
7 listed in paragraph 40, above, he violated sections of the California Code of Regulations, title 16,
8 as follows:

9 a. **Section 3340.30, subdivision (a):** Respondent Brar failed to inspect and test the
10 vehicles in accordance with sections 44012 and 44035 of the Health and Safety Code and section
11 3340.42 of the California Code of Regulations.

12 b. **Section 3340.35, subdivision (c):** Respondent Brar issued Certificates of Compliance
13 to vehicles that were not inspected in accordance with section 3340.42 of the California Code of
14 Regulations.

15 c. **Section 3340.45:** Respondent Brar failed to perform all Smog Check inspections in
16 accordance with requirements and procedures prescribed in the Smog Check Inspection
17 Procedures Manual and 2013 Smog Check Manual which are hereby incorporated by reference.
18 The 2013 Smog Check Manual indicates, under the section titled "Test Requirements," which
19 types of vehicles must be tested with the OIS.

20 Complainant hereby incorporates all the allegations contained in paragraphs 39 and 40, as
21 though set forth fully.

22 **NINETEENTH CAUSE FOR DISCIPLINE**

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

24 43. Respondent Brar has subjected his smog check inspector license and smog check
25 repair technician license to discipline under Health and Safety Code section 44072.2, subdivision
26 (a), in that relating to the certification of the vehicles listed in paragraph 40, above, he violated
27 sections of that Code, as follows:

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1 a. **Section 44012:** Respondent Brar failed to ensure that emission control tests were
2 performed in accordance with procedures prescribed by the department.

3 d. **Section 44032:** Respondent Brar failed to perform inspections of the vehicles in
4 accordance with section 44012.

5 Complainant hereby incorporates all the allegations contained in paragraphs 39 and 40, as
6 though set forth fully.

7 **TWENTIETH CAUSE FOR DISCIPLINE**

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

9 44. Respondent Brar has subjected his smog check inspector license and smog check
10 repair technician license to discipline under Health and Safety Code section 44072.2, subdivision
11 (c), in that relating to the certification of the vehicles listed in paragraph 40, above, he violated
12 sections of the California Code of Regulations, title 16, as follows:

13 a. **Section 3340.30, subdivision (a):** Respondent Brar failed to inspect and test the
14 vehicles in accordance with sections 44012 and 44035 of the Health and Safety Code and section
15 3340.42 of the California Code of Regulations.

16 b. **Section 3340.35, subdivision (c):** Respondent Brar issued Certificates of Compliance
17 to vehicles that were not inspected in accordance with section 3340.42 of the California Code of
18 Regulations.

19 c. **Section 3340.45:** Respondent Brar failed to perform all Smog Check inspections in
20 accordance with requirements and procedures prescribed in the Smog Check Inspection
21 Procedures Manual and 2013 Smog Check Manual which are hereby incorporated by reference.
22 The 2013 Smog Check Manual indicates, under the section titled "Test Requirements," which
23 types of vehicles must be tested with the OIS.

24 Complainant hereby incorporates all the allegations contained in paragraphs 39 and 40, as
25 though set forth fully.

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PRIOR CITATIONS

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2 45. To determine the degree of penalty, if any, to be imposed upon Respondent Brar,
3 Complainant alleges as follows:

4 a. On September 12, 2006, the Bureau issued Citation No. M07-0088 to Respondent
5 Brar against his technician license for violations of Health and Safety Code section 44032 (failure
6 to perform tests of emission control systems and devices in accordance with Health and Safety
7 Code section 44012) and California Code of Regulations, title 16, (“Regulation”), section
8 3340.30, subdivision (a) (failure to inspect, test, and repair vehicles in accordance with Health
9 and Safety Code sections 44012 and 44035, and Regulation section 3340.42). Respondent Brar
10 issued a certificate of compliance to a Bureau vehicle with a non-functioning Exhaust Gas
11 Recirculation Valve. The Bureau directed Respondent Brar to complete an 8-hour training
12 course. Respondent Brar complied with this citation on November 4, 2006.

13 b. On January 12, 2010, the Bureau issued Citation No. M2010-0656 to Respondent
14 Brar against his technician license for violations of Health and Safety Code section 44032 (failure
15 to perform tests of emission control systems and devices in accordance with Health and Safety
16 Code section 44012) and Regulation section 3340.3, subdivision (a) (failure to inspect, test, and
17 repair vehicles in accordance with Health and Safety Code sections 44012 and 44035, and
18 Regulation section 3340.42). Respondent Brar issued a certificate of compliance to a Bureau
19 vehicle with a missing Exhaust Gas Recirculation system. The Bureau directed Respondent Brar
20 to complete an 8-hour training course. Respondent Brar complied with this citation on March 31,
21 2010.

22 c. On May 11, 2012, the Bureau issued Citation No. M2012-1540 to Respondent Brar
23 against his technician license for violation of Health and Safety Code section 44032 (failure to
24 perform tests of emission control systems and devices in accordance with Health and Safety Code
25 section 44012). Respondent Brar issued a certificate of compliance to a Bureau vehicle with a
26 missing Fuel Evaporation Canister. The Bureau directed Respondent Brar to complete a 16-hour
27 training course. Respondent Brar complied with this citation on July 29, 2012.

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1 d. On May 11, 2012, the Bureau issued Citation No. C2012-1539 to Respondent Brar
2 against his registration for violation of Health and Safety Code section 44012, subdivision (f)
3 (failure to perform a visual/functional check of emission control devices according to procedures
4 prescribed by the department). Respondent Brar issued a certificate of compliance to a Bureau
5 vehicle with a missing Fuel Evaporation Canister. The Bureau assessed a civil penalty of \$1,000.
6 Respondent Brar complied with this citation on June 27, 2012.

7 **OTHER MATTERS**

8 46. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
9 or permanently, or refuse to validate, the registrations for all places of business operated in this
10 state by Davinder Singh Brar, upon a finding that he has, or is, engaged in a course of repeated
11 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

12 47. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
13 License Number TC 264331, issued to Davinder Singh Brar, doing business as Valley Smog, is
14 revoked or suspended, any additional license issued under this chapter in the name of said
15 licensee may be likewise revoked or suspended by the director.

16 48. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.
17 EO 150614, issued to Davinder Singh Brar, is revoked or suspended, any additional license issued
18 under this chapter in the name of said licensee may be likewise revoked or suspended by the
19 director.

20 49. Under Health and Safety Code section 44072.8, if Smog Check Repair Technician
21 License Number EI 150614, issued to Davinder Singh Brar, is revoked or suspended, any
22 additional license issued under this chapter in the name of said licensee may be likewise revoked
23 or suspended by the director.

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1 PRAYER

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

- 4 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
5 Registration Number ARD 264331, issued to Davinder Singh Brar, doing business as Valley
6 Smog;
- 7 2. Revoking, suspending or placing on probation any other automotive repair dealer
8 registration issued to Davinder Singh Brar;
- 9 3. Revoking or suspending Smog Check Test Only Station License Number TC 264331,
10 issued to Davinder Singh Brar, doing business as Valley Smog;
- 11 4. Revoking or Suspending Smog Check Inspector License No. EO 150614, issued to
12 Davinder Singh Brar;
- 13 5. Revoking or suspending Smog Check Repair Technician License No. EI 150614,
14 issued to Davinder Singh Brar;
- 15 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
16 and Safety Code in the name of Davinder Singh Brar
- 17 7. Ordering Davinder Singh Brar to pay the Bureau of Automotive Repair the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3; and
- 20 8. Taking such other and further action as deemed necessary and proper.
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22

23 DATED: September 17, 2015



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

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