

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
4 State Bar No. 274129
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2562
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/15-138

13 **SIGNAL HILL ONE STOP SMOG;**
14 **MOHAMMED AJUMMA AZZAM, Owner**
15 **2340 Orange Avenue, Unit #5**
16 **Signal Hill, CA 90755**

ACCUSATION

(SMOG CHECK)

17 **12551 Wayne E. Circle**
18 **Cerritos, CA 90703**

19 **Automotive Repair Dealer Registration No.**
20 **ARD 277695**
21 **Smog Check, Test Only, Station License No.**
22 **TC 277695**

23 **and**

24 **KALEIL MOHAMMED ABUQALBIN**
25 **7035 Santa Irene #36**
26 **Buena Park, CA 90620**

27 **Smog Check Inspector License No. EO**
28 **637322**

Respondents.

Complainant alleges:

PARTIES

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

1 8. Health and Safety Code section 44002, provides, in pertinent part, that the Director
2 has all the powers and authority granted under the Automotive Repair Act for enforcing the
3 Motor Vehicle Inspection Program.

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

8 **STATUTORY PROVISIONS**

9 10. Section 477 states, in pertinent part:

10 (a) "Board" includes "bureau," "commission," "committee," "department,"
11 "division," "examining committee," "program," and "agency."

12 (b) "License" includes certificate, registration or other means to engage in a
13 business or profession regulated by the Code.

14 11. Section 9884.7 states, in pertinent part:

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

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

24

25 (4) Any other conduct that constitutes fraud.

26

27 (6) Failure in any material respect to comply with the provisions of this
28 chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or
regulations adopted pursuant to it.

12. Health and Safety Code Section 44012 states:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require loaded mode dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other appropriate test procedures as determined by the department in consultation with the state board. The department shall implement testing using

1 onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle
2 testing, on model year 2000 and newer vehicles only, beginning no earlier than
3 January 1, 2013. However, the department, in consultation with the state board, may
4 prescribe alternative test procedures that include loaded mode dynamometer or two-
5 speed idle testing for vehicles with onboard diagnostic systems that the department
6 and the state board determine exhibit operational problems. The department shall
7 ensure, as appropriate to the test method, the following:

8 (a) Emission control systems required by state and federal law are reducing
9 excess emissions in accordance with the standards adopted pursuant to subdivisions
10 (a) and (c) of Section 44013.

11

12 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
13 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
14 mode or loaded mode are tested in accordance with procedures prescribed by the
15 department. In determining how loaded mode and evaporative emissions testing shall
16 be conducted, the department shall ensure that the emission reduction targets for the
17 enhanced program are met.

18 13. Health and Safety Code Section 44015 states, in pertinent part:

19 (b) If a vehicle meets the requirements of Section 44012, a smog check station
20 licensed to issue certificates shall issue a certificate of compliance or a certificate of
21 noncompliance.

22 14. Health and Safety Code Section 44032 states, in pertinent part:

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

28 15. Health and Safety Code Section 44059 states:

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

16. Health and Safety Code section 44072.2 states:

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

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

. . . .

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

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

4

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

7 17. Health and Safety Code section 44072.8 states:

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

11 **REGULATORY PROVISIONS**

12 18. California Code of Regulations, title 16, section 3340.24, subdivision (c), provides
13 that “[t]he bureau may suspend or revoke the license of or pursue other legal action against a
14 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
15 certificate of noncompliance.”

16 19. California Code of Regulations, title 16, section 3340.30, subdivision (a), provides, in
17 pertinent part, that a licensed technician shall inspect, test and repair vehicles in accordance with
18 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and
19 section 3340.42 of the California Code of Regulations.

20 20. California Code of Regulations, title 16, section 3340.35, subdivision (c), provides, in
21 pertinent part, that a licensed station shall issue a certificate of compliance or noncompliance to
22 the owner or operator of any vehicle that has been inspected in accordance with the procedures
23 specified in section 3340.42 of the California Code of Regulations and have all the required
24 emission control equipment and devices installed and functioning correctly.

25 21. California Code of Regulations, title 16, section 3340.41, subdivision (c), provides
26 that no person shall enter into the emissions inspection system any vehicle identification
27 information or emission control system identification data for any vehicle other than the one
28 being tested. Nor shall any person knowingly enter any false information about the vehicle being
tested into the emissions inspection system.

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1 COST RECOVERY

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

6 VIDEO SURVEILLANCE OPERATION OF FEBRUARY 20, 2015

7 23. On February 20, 2015, Bureau representatives conducted a video surveillance
8 operation of Respondent Signal Hill's smog check facility. During the surveillance operation and
9 prior to conducting any smog checks, Respondent Abuqalbin opened Respondent Signal Hill's
10 test bay door and backed his personal 1996 Lexus LS400 into Respondent Signal Hill's smog
11 check facility. Respondent Abuqalbin then walked out of Respondent Signal Hill's smog check
12 facility and used binoculars to view the adjacent street and parking lot, where the Bureau had set
13 up video surveillance. Respondent Abuqalbin proceeded to conduct the six fraudulent smog
14 inspections identified in the table below. Approximately an hour and a half after using binoculars
15 to view the adjacent street and parking lot, and after conducting the six fraudulent inspections,
16 Respondent Abuqalbin walked out of Signal Hill and placed a rag in front of the periscope lens of
17 the Bureau's video surveillance, obstructing the camera's view. Approximately ten minutes after
18 Respondent Abuqalbin obstructed the Bureau's video surveillance, Bureau representatives
19 entered Respondent Signal Hill's smog check facility and found the black 1996 Lexus LS400
20 owned by Respondent Abuqalbin parked on the dynamometer portion of the Emissions Inspection
21 System ("EIS.")

22 24. The surveillance operation and information obtained from the BAR's Vehicle
23 Information Database ("VID")² revealed that Respondent Signal Hill through the actions of
24 Respondent Abuqalbin performed six smog inspections that resulted in the issuance of five
25 electronic certificates of compliance for the vehicles set forth in the below table. The electronic
26

27 ² The VID reveals a variety of information concerning each test conducted at Respondent
28 Signal Hill, including the name and license number of the technician or inspector who conducted
each test, the date of the test, and the start and end times of each test.

1 certificates of compliance certified that Respondent Signal Hill and Respondent Abuqalbin
 2 (collectively, "Respondents") had tested and inspected those vehicles and that the vehicles were
 3 in compliance with applicable laws and regulations. In fact, Respondents performed the smog
 4 inspections using the clean piping³ method by utilizing the tail pipe emissions of the 1996 Lexus
 5 LS400 owned by Respondent Abuqalbin instead of the vehicles being certified in order to issue
 6 the electronic certificates of compliance.

8 Test Date	Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
9 2/20/15	1035-1041	2001 Toyota Tundra (6S91695)	1996 Lexus LS400 (6HSA066)	YP134253
10 2/20/15	1049-1053	2003 Dodge Durango (6FNM357)	1996 Lexus LS400 (6HSA066)	YP134254
11 2/20/15	1102-1109	1993 Ford Ranger (7L76614)	1996 Lexus LS400 (6HSA066)	YP134255
12 2/20/15	1114-1118	1982 Toyota Pickup (7N36249)	1996 Lexus LS400 (6HSA066)	None
13 2/20/15	1122-1129	1990 Chevrolet C1500 (92306G1)	1996 Lexus LS400 (6HSA066)	YP134256
14 2/20/15	1133-1204	1999 Infiniti G20 (5EOA612)	1996 Lexus LS400 (6HSA066)	YP134257

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 25. Respondent Signal Hill's automotive repair dealer registration is subject to discipline
 20 pursuant to section 9884.7, subdivision (a)(1), in that on or about February 20, 2015, Respondent
 21 Signal Hill made statements which it knew or which by exercise of reasonable care should have
 22 known to be untrue or misleading, as follows: Respondent Signal Hill's smog check inspector,
 23 Respondent Abuqalbin, certified that the vehicles identified in the table attached to paragraph 24
 24 above had passed inspection and were in compliance with applicable laws and regulations. In
 25 fact, Respondent Abuqalbin used the clean piping method in order to issue certificates for those

26
 27 ³ Pursuant to California Code of Regulations, title 16, section 3340.1, "clean piping"
 28 means the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to
 issue a certificate of compliance for another vehicle.

1 vehicles and did not test or inspect the vehicles as required by Health and Safety Code § 44012.
2 Complainant refers to, and by this reference incorporates, the information contained in paragraph
3 24, and the attached table, as though set forth fully.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 26. Respondent Signal Hill's automotive repair dealer registration is subject to discipline
7 pursuant to section 9884.7, subdivision (a)(4), in that on or about February 20, 2015, Respondent
8 Signal Hill committed acts constituting fraud by issuing certificates of compliance for vehicles it
9 did not inspect. Respondent Signal Hill issued certificates of compliance to the vehicles
10 identified in the table attached to paragraph 24 above without performing a bona fide inspection
11 of the emission control devices and systems on the vehicles, thereby depriving the People of the
12 State of California of the protection afforded by the Motor Vehicle Inspection Program.
13 Complainant refers to, and by this reference incorporates, the information contained in paragraph
14 24, and the attached table, as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

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

17 27. Respondent Signal Hill's smog check station license is subject to discipline pursuant
18 to Health & Safety Code section 44072.2, subdivision (a), in that on or about February 20, 2015,
19 Respondent Signal Hill failed to comply with the following sections of the Health & Safety Code:

20 a. **Section 44012:** Respondent Signal Hill failed to perform the emission control tests
21 on the vehicles identified in the table attached to paragraph 24 above in accordance with
22 procedures prescribed by the department.

23 b. **Section 44015:** Respondent Signal Hill issued electronic certificates of compliance
24 for the vehicles identified in the table attached to paragraph 24 above without properly inspecting
25 the vehicles to determine if they were in compliance with Health & Safety Code section 44012.

26 c. **Section 44059:** Respondent Signal Hill, through its inspector Respondent Abuqalbin,
27 willfully made false entries in the EIS, resulting in the issuance of fraudulent certificates of
28 compliance for the vehicles identified in paragraph 24 above.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 30. Respondent Abuqalbin's smog check inspector license is subject to discipline
4 pursuant to Health and Safety Code section 44072.2, subdivision (a), and Health and Safety Code
5 section 44032 in that on or about February 20, 2015, Respondent Abuqalbin violated the
6 following sections of the Health and Safety Code:

7 a. **Section 44012:** Respondent Abuqalbin failed to perform the emission control tests
8 on the vehicles identified in the table attached to paragraph 24 above in accordance with
9 procedures prescribed by the department.

10 b. **Section 44015:** Respondent Abuqalbin issued electronic certificates of compliance
11 for the vehicles identified in the table attached to paragraph 24 above without properly inspecting
12 the vehicles to determine if they were in compliance with Health & Safety Code section 44012.

13 c. **Section 44059:** Respondent Abuqalbin willfully made false entries in the EIS,
14 resulting in the issuance of fraudulent certificates of compliance for the vehicles identified in
15 paragraph 24 above.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Adopted
18 Pursuant to the Motor Vehicle Inspection Program)**

19 31. Respondent Abuqalbin's smog check inspector license is subject to discipline
20 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about February
21 20, 2015, Respondent Abuqalbin violated the following sections of the California Code of
22 Regulations, title 16:

23 a. **Section 3340.24, subdivision (c):** Respondent Abuqalbin falsely or fraudulently
24 issued electronic smog certificates of compliance for the vehicles identified in the table attached
25 to paragraph 24 above.

26 b. **Section 3340.35, subdivision (c):** Respondent Abuqalbin issued electronic smog
27 certificates of compliance for the vehicles identified in the table attached to paragraph 24 above
28 even though the vehicles had not been inspected in accordance with section 3340.42.

c. **Section 3340.41, subdivision (c):** Respondent Abuqalbin entered false information

1 into the EIS by entering vehicle identification information or emission control system
2 identification data for vehicles other than the ones being tested.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 32. Respondent Abuqalbin's smog check inspector license is subject to discipline
6 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about February
7 20, 2015, Respondent Abuqalbin committed acts involving dishonesty, fraud or deceit whereby
8 another was injured by issuing electronic certificate of compliance for the vehicles identified in
9 the table attached to paragraph 24 above without performing bona fide inspections of the
10 emission control devices and systems on the vehicles, thereby depriving the People of the State of
11 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
12 refers to, and by this reference incorporates, the information contained in paragraph 24 and the
13 attached table as though set forth fully.

14 **OTHER MATTERS**

15 33. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
16 Director may suspend, revoke or place on probation the registration for all places of business
17 operated in this state by Mohammed Ajumma Azzam, owner of Respondent Signal Hill, upon a
18 finding that Respondent Signal Hill has, or is, engaged in a course of repeated and willful
19 violations of the laws and regulations pertaining to an automotive repair dealer.

20 34. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
21 License Number TC 277695, issued to Signal Hill One Stop Smog, with Mohammed Ajumma
22 Azzam as the owner, is revoked or suspended, any additional license issued under this chapter in
23 the name of said licensee may be likewise revoked or suspended by the Director.

24 35. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
25 Number EO 637322, issued to Kaleil Mohammed Abuqalbin, is revoked or suspended, any
26 additional license issued under this chapter in the name of said licensee may be likewise revoked
27 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 or suspending Automotive Repair Dealer Registration Number ARD 277695 issued to Signal Hill One Stop Smog, with Mohammed Ajumma Azzam as the owner;
2. Revoking or suspending any other automotive repair dealer registration issued to Mohammed Ajumma Azzam;
3. Revoking or suspending Smog Check Test Only Station License Number TC 277695, issued to Signal Hill One Stop Smog, with Mohammed Ajumma Azzam as the owner;
4. Revoking or suspending Smog Check Inspector License Number EO 637322 issued to Kaleil Mohammed Abuqalbin;
5. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kaleil Mohammed Abuqalbin;
6. Ordering Signal Hill One Stop Smog, with Mohammed Ajumma Azzam as the owner, and Kaleil Mohammed Abuqalbin to pay the Bureau of Automotive Repair its reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
7. Taking such other and further action as deemed necessary and proper.

DATED:

June 30, 2015

Patrick Dorais

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

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