

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

In the Matter of the Accusation Against:

Case No.: 79/16-13138

**PRO SMOG HASSAN MOHAMMAD
ALRAWASHDEH, Owner**

6076 N 6th Street
Fresno, CA 93710
4485 E. Belmont Ave
Fresno, CA 93702

OAH No.: 2017090095

Automotive Repair Dealer Registration No.:
ARD 280040
Smog Check Test Only Station License No.: TC
280040

and

HASSAN MOHAMMAD ALRAWASHDEH

6076 N 6th Street
Fresno, CA 93710

Smog Check Inspector License No.: EO 637726

Respondents.

DECISION

The attached Correct Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective July 27, 2018.

DATED: June 26, 2018



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

PRO SMOG
HASSAN MOHAMMAD ALRAWASHDEH,
Owner

Automotive Repair Dealer Registration
No. ARD 280040
Smog Check, Test Only, Station License
No. TC 280040

HASSAN MOHAMMAD ALRAWASHDEH

Smog Check Inspector License No. EO 637726

Respondents.

Case No. 79/16-13138

OAH No. 2017090095

CORRECT PROPOSED DECISION¹

This matter was heard before Heather M. Rowan, Administrative Law Judge, Office of Administrative Hearings, State of California, on March 20, 2018, in Sacramento California.

Deputy Attorney General Phillip Arthur represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

William Ferreira, Attorney at Law, represented respondent Pro Smog, Hassan Mohammad Alrawashdeh, Owner, who was not present.

Evidence was received, argument was heard, and the matter was submitted for decision on March 20, 2018.

¹ This Proposed Decision was corrected to include all applicable probationary terms.

FACTUAL FINDINGS

Licensure and Jurisdiction

1. On April 23, 2015, the Bureau issued Automotive Repair Dealer Registration number ARD 280040 to respondent, doing business as Pro Smog. The registration will expire on April 30, 2018, unless renewed or revoked. On May 21, 2015, the Bureau issued Smog Check, Test Only, Station License number TC 280040 to respondent, doing business as Pro Smog. The license will expire on April 30, 2018, unless renewed or revoked.

2. On January 12, 2015, the Bureau issued Smog Check Inspector (EO) License number EO 637726 to respondent. The license will expire on December 31, 2018, unless renewed or revoked.

3. On June 29, 2017, complainant, solely in his official capacity, signed and thereafter filed the Accusation. Respondent timely filed a Notice of Defense, requesting a hearing. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

License Discipline History

4. On September 30, 2015, the Bureau issued Citation C2015-2293 against respondent's ARD and test-only licenses for violating Health and Safety Code section 44012, subdivision (f). The Bureau alleged that respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing catalytic converter. The Bureau assessed a \$1,000 fine, which respondent paid on January 28, 2016. On September 30, 2015, the Bureau also issued Citation M2015-2294 against respondent's smog technician license for the same undercover vehicle and certificate of compliance. Respondent was ordered to complete an eight-hour Bureau-approved training course. Respondent completed the course on February 13, 2016.

Vehicle Information Database (VID) Data Review – Clean-Plugging

5. The Accusation alleges respondent issued smog check certificates that were false and fraudulent, in that respondent did not actually test the vehicles for which smog certificates were issued. The allegations involve smog testing done following the Bureau's updating, on March 9, 2015, of the California Smog Check Program, which required the use of an On-Board Diagnostic Inspection System (BAR-OIS). The BAR-OIS smog check equipment is required when inspecting model-year 2000 and newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition Device (DAD), computer, bar-code scanner, and printer.

6. "Clean plugging" is an illegal technique used to fraudulently pass a vehicle through a smog check inspection. Part of the smog test is an On Board Diagnostics -

Generation II (OBDII) functional test in which the licensed inspector connects a cable from the station's test computer to a Diagnostic Link Connector, which is a plug found inside the vehicle's passenger cabin. Through the plug and cable, the test computer retrieves information from the vehicle's on-board computer. When clean plugging a vehicle, the technician enters information into the station's computer-based smog testing system about the vehicle to be issued a certificate indicating it passed the inspection, but this is done by actually connecting the test cable to a different vehicle. The purpose of clean plugging is to issue fraudulent smog Certificates of Compliance (certificates) to vehicles that are not in smog compliance or are not even present for testing.

7. The OBDII testing process produces vehicle information including the automobile's Vehicle Identification Number (VIN). A VIN is physically present on all vehicles, and is most often found on the vehicle's dash and on the door. The VIN is also required to be programmed into the OBDII system on 2005 and newer vehicles. The VIN has also been programmed into the OBDII system for many earlier-model years of automobiles. This electronically programmed VIN is referred to as the "eVIN," which is transmitted to the Vehicle Information Database (VID) during the smog check and must match the automobile's physical VIN.

8. During an OIS smog check, two other types of data distinct to the vehicle being tested are also retrieved and recorded. The first includes the vehicle's "communication protocol," or the specified communication "language" used by the OBDII computer to communicate with scan tools and other devices such as the BAR-OIS. The communication protocol is programmed into the OBDII computer during the vehicle's manufacture and does not change.

9. The second distinct form of data collected is the total number of Parameter Identifications (PIDs) that exist for the vehicle being tested. PIDs are data points reported by the OBDII computer to the scan tool or BAR-OIS, relaying information about, for example, engine speed (rpm), vehicle speed, and engine temperature. The "PID count" refers to the number of data points reported by the vehicle's OBDII computer. Each make and model vehicle reports a specific number of PID counts; the PID count does not vary for one particular make and model vehicle.

10. Derek Bryant is a Program Representative I with the Bureau, and works out of the Fresno Field Office. As a Program Representative I, he searches for anomalies in the VID data using automated data checks. Information on each smog check inspection performed by a smog check station is transmitted electronically to the VID from the station's BAR97 Emissions Inspection System (EIS), a computer-based analyzer.

11. Mr. Bryant initiated an investigation on August 2, 2016. He reviewed data obtained from the Bureau's VID pertaining to smog inspections performed at Pro Smog. He found that respondent performed smog inspections on four vehicles identified below using a clean-plugging method, which resulting in the issuance of fraudulent certificates for all four vehicles as follows.

Clean-Plugged Vehicles

VEHICLE ONE

12. On July 18, 2016, respondent performed a smog inspection on a 2000 Toyota Tundra Limited (Vehicle 1), resulting in the issuance of Smog Certificate of Compliance (certificate) number ZH117964C. The OIS test results showed that the eVIN that was recorded did not match the physical VIN on the vehicle. Mr. Bryant reviewed the Comparative OIS Test Data for the same make and model vehicles and found that the PID count recorded during the inspection was not consistent with the communication protocol and PID count for that make and model vehicle. The eVIN, communication protocol, and PID count, however, did match a 2006 Toyota Tundra Double Cab SR5 that had passed a smog test at Pro Smog on April 14, 2016. This was evidence that the DAD was not connected to Vehicle 1 during the smog inspection, resulting in the issuance of a fraudulent certificate.

VEHICLE TWO

13. On October 1, 2016, respondent performed a smog inspection on a 2000 Chevrolet Silverado K1500 (Vehicle 2), resulting in issuance of certificate number QE523497C. The OIS test results showed that the eVIN that was recorded did not match the physical VIN on the vehicle. Mr. Bryant reviewed the Comparative OIS Test Data for the same make and model vehicles and found that the PID count recorded during the inspection was not consistent with the communication protocol and PID count for that make and model vehicle. The eVIN, communication protocol, and PID count, however, did match a 2001 GMC Yukon that had passed a smog test at Pro Smog on the same day: October 1, 2016. This was evidence that the DAD was not connected to Vehicle 2 during the smog inspection, resulting in the issuance of a fraudulent certificate.

VEHICLE THREE

14. On October 27, 2016, respondent performed a smog inspection on a 2005 Toyota Tundra Access Cab SR5 (Vehicle 3), resulting in issuance of certificate number QG381029C. The OIS test results showed that the eVIN that was recorded did not match the physical VIN on the vehicle. Mr. Bryant reviewed the Comparative OIS Test Data for the same make and model vehicles and found that the eVIN was not reported for that make and model vehicle, and would not be received by the VID. He further found that the PID count recorded during the inspection was not consistent with the communication protocol and PID count for that make and model vehicle. The eVIN, communication protocol, and PID count, however, did match a 2006 Toyota Tacoma PreRunner Double Cab that had passed a smog test at another smog facility on January 20, 2015. This was evidence that the DAD was not connected to Vehicle 3 during the smog inspection, resulting in the issuance of a fraudulent certificate.

VEHICLE FOUR

15. On November 7, 2016, respondent performed a smog inspection on a 2006 Honda CR-V LX (Vehicle 4), resulting in issuance of certificate number QG654089C. The OIS test results showed that the eVIN that was recorded did not match the physical VIN on the vehicle. Mr. Bryant reviewed the Comparative OIS Test Data for the same make and model vehicles and found that the PID count recorded during the inspection was not consistent with the communication protocol and PID count for that make and model vehicle. The eVIN, communication protocol, and PID count, however, did match a 2008 Honda Civic LX, which was one of the cars on the lot of respondent's used car dealership, and which had passed a smog test at Pro Smog on November 2, 2016. This was evidence that the DAD was not connected to Vehicle 4 during the smog inspection, resulting in the issuance of a fraudulent certificate.

16. Following Mr. Bryant's review of the data, he spoke with respondent at Pro Smog. Respondent informed Mr. Bryant that he was the only smog technician at Pro Smog. When asked for the VIRs on the vehicles above, respondent produced them. He also produced all of the invoices that Mr. Bryant requested, except for smog tests done on vehicles that respondent's used car dealership owned. It is respondent's practice not to write invoices for his own cars.

Mr. Bryant also reviewed respondent's certificate sales history. The certificate numbers that Pro Smog purchased matched the certificates issued to Vehicles 1 through 4. Certificates are purchased in batches of 50. A licensee can create an account to automatically order a new batch when necessary. Respondent purchased 50 certificates on September 22, 2016, October 20, 2016, and October 29, 2016. Mr. Bryant concluded that Pro Smog performs a relatively high volume of smog inspections, based on its certificate purchases.

17. Respondent did not testify or submit other evidence in his defense.

Discussion

18. The weight of the evidence established that respondent issued certificates of compliance to Vehicles 1 through 4. In doing so, he certified under penalty of perjury that each vehicle passed a properly performed smog inspection. He never connected the DAD to any of the vehicles during the inspection, however. Instead, he connected the DAD to another vehicle to generate fraudulent BAR-OIS data and a certificate of compliance. Such conduct constituted dishonest, fraudulent, and deceitful acts, and violated the statutes and regulations governing California's Smog Check Program.

19. Through counsel, respondent argued that the incorrect eVIN, PID count, and protocol data could have been produced for a variety of reasons that did not involve fraud. For example, perhaps respondent scanned the wrong Department of Motor Vehicles registration paperwork prior to performing the smog inspection. Or the vehicle had a car

door that had been replaced, and respondent scanned the VIN bar code on that door. Or the computer simply made an error. Respondent argued that he did not engage in fraud, he simply failed to confirm that the VIN bar code he scanned matched the car he was inspecting.

Respondent's arguments are not persuasive. One of the vehicles respondent used to clean plug was a vehicle that respondent owned through his used car dealership and on which he had previously performed a smog inspection. (Factual Finding 15.) Another two vehicles respondent had already tested at Pro Smog, one of which was tested on the same day.

20. Respondent also argued that the public would be adequately protected if respondent were subject to a probationary period and the Bureau were to install a "certificate blocking" mechanism in respondent's BAR-OIS system to prevent clean plugging. Certificate blocking prohibits a certificate from being issued to a car where the scanned data from the VIN barcode does not match the data of the vehicle connected to the DAD. When asked, however, Mr. Bryant, the Bureau's representative, was not familiar with certificate blocking, or whether it is readily available and effective.

21. The Bureau has produced Disciplinary Guidelines (Guidelines) to apply to determine the appropriate level of discipline. The Guidelines suggest that matters in aggravation and mitigation be considered. Here, respondent had one prior incident that led to discipline of his smog check inspector license and smog check, test only, station license. He complied with the orders in those citations. He was also cooperative with Mr. Bryant during the investigation. No evidence was presented regarding additional violations following the date of the Accusation. Respondent did not testify or submit mitigating evidence, however. Respondent performs a high volume of smog inspections. While four instances of clean plugging are not a large percentage of his business, he has nevertheless deprived the public of the protections that the smog testing program provides.

22. Complainant now seeks revocation of respondent's ARD registration, smog check, test only, station license, and his smog check inspector license. In seeking revocation, complainant points to respondent's disciplinary history that includes two citations as well as the current violations.

23. Applying the Guidelines to the violations alleged and proved herein, the appropriate discipline is a probationary period and actual suspension of respondent's licenses. The above matters have all been considered in determining that it would not be contrary to the public interest for respondent to continue automotive repair and smog inspection activities on a probationary basis with appropriate terms and conditions.

Costs

24. Complainant requested that respondent be ordered to pay costs it incurred for investigation in the total amount of \$6,776.72. Complainant also requested that respondent be ordered to pay costs it incurred for the legal work performed by the Attorney General's

Office in this matter in the total amount of \$2,560. The reasonableness of the cost bill is discussed in Legal Conclusion 15 below.

LEGAL CONCLUSIONS

Burden of Proof

1. In revocation proceedings, the Bureau must prove that charges in the Accusation are true and it must do so using the preponderance of the evidence standard. (*Imports Performance et al. v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-918.) Respondent has the burden of establishing any affirmative defenses.

Statutes and Regulations

2. The Legislature has declared that California's Motor Vehicle Inspection Program (Program), Health and Safety Code section 44000 et seq., requires an "enforcement program which is vigorous and effective and includes monitoring of the performance of the smog check test or repair stations and technicians, as well as the monitoring of vehicle emissions as vehicles are being driven." (Health & Saf. Code, § 44001, subd. (b)(5)(E).) The Director of Consumer Affairs (director) has all of the powers and authority granted under the Automotive Repair Act for enforcing the Program; the Program is enforced and administered by the chief of the Bureau of Automotive Repairs. (Health & Saf. Code, §§ 44001.5, 44002.)

3. Business and Professions Code section 9884.7 provides in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions 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.

(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 by the exercise of reasonable care should be known, to be untrue or misleading.

[¶] . . . [¶]

(4) Any other conduct that constitutes fraud.

4. Pursuant to Health and Safety Code section 44072.2, the director may suspend, revoke, or take other disciplinary action against a license if the licensee does any of the following:

(a) Violates any section of this chapter 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.

5. A smog test “shall be performed in accordance with procedures prescribed by the department. . . .” (Health & Saf. Code, § 44012; Cal. Code Regs. tit. 16, § 3340.42.) A smog check technician shall inspect, test and repair vehicles, as applicable, in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42. (Cal. Code Regs., tit. 16, § 3340.30, subd. (a).) A smog check station’s license or a qualified smog check technician’s qualification may be suspended or revoked by the Bureau, after a hearing, for failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct. (Health & Saf. Code, § 44035, subd. (a).)

6. A licensed smog check station shall not issue a certificate of compliance to any vehicle that has not met the requirements of Health and Safety Code section 44012. (Health & Saf. Code, § 44015, subd. (b).) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and “has all the required emission control equipment and devices installed and functioning correctly. . . .” (Cal. Code Regs., tit. 16, § 3340.35, subd. (c).)

Causes for Discipline

7. Complainant established cause for discipline against respondent’s ARD license pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), by reason of the matters set forth in Factual Findings 12 through 15. Respondent made or authorized a statement which he knew or in the exercise of reasonable care should have known to be untrue or misleading.

8. Complainant established cause for disciplining respondent’s ARD license pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), by reason of the matters set forth in Factual Findings 12 through 15. Complainant established that

respondent knew, particularly regarding Vehicle 4, that the vehicles he was performing the smog inspection on were not the vehicles that he connected to the DAD and BAR-OIS.

9. Complainant established cause for disciplining respondent's smog check, test only, station license and his smog check inspector license pursuant to Health and Safety Code section 44072.2, subdivision (a), by reason of the matters set forth in Factual Findings 12 through 15. Respondent failed to comply with provisions of the Motor Vehicle Inspection Program. (Health & Saf. Code, §§ 44012, 44015; Cal. Code Regs., tit. 16, §§ 3340.35, subd. (c) and 3340.42.)

10. Complainant established cause for disciplining respondent's smog check, test only, station license and his smog check inspector license pursuant to Health and Safety Code section 44072.2, subdivision (c), by reason of the matters set forth in Factual Findings 12 through 15. Respondent failed to comply with provisions of California Code of Regulations, title 16. (Cal. Code Regs., tit. 16, §§ 3340.35, subd. (c), 3340.42.)

11. Complainant established cause for disciplining respondent's smog check, test only, station license and his smog check inspector license pursuant to Health and Safety Code section 44072.2, subdivision (d), by reason of the matters set forth in Factual Findings 12 through 15. Respondent committed a dishonest or deceitful act by issuing a smog certificate of compliance to Vehicles 1 through 4 without ensuring that a bona fide inspection was performed of the emission control devices and systems.

12. Respondent's conduct in clean plugging four vehicles deprived the public of the protections the Bureau's smog check program provides. Respondent and Pro Smog each have one prior citation. There was no evidence of additional misconduct following the events that led to the Accusation. Under all of the facts and circumstances, it would not be contrary to the public interest to permit respondent to retain its auto repair dealer registration, smog check, test only, license, and smog check station license, subject to probationary terms and conditions. Pursuant to the Guidelines, probation should be for five years, and respondent's licenses suspended for 15 days.

Discipline of Other Licenses

13. Under Health and Safety Code section 44072.8, the suspension or revocation of a smog check station license or smog technician license constitutes cause to suspend or revoke other such licenses held by the disciplined licensee. Accordingly, if the smog check station license issued to respondent, as owner of Pro Smog, is disciplined, respondent's technician license may also be disciplined.

14. Business and Professions Code section 9884.7, subdivision (c), provides that "the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it."

Costs

15. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and enforcement of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

In support of its request for costs, complainant submitted the Certification of Prosecution Costs: Declaration of Phillip Arthur (Declaration), signed by Mr. Arthur on February 22, 2018. The Declaration incorporated the Department of Justice's (DOJ's) "Matter Time Activity by Professional Type," which indicates that DOJ has billed the Board a total of \$2,560 for time spent working on this matter. Complainant also submitted a Declaration of Derek Bryant, which Mr. Bryant signed on February 21, 2018. Mr. Bryant's declaration incorporated the Bureau's "Case Hours and Costs Spreadsheet, which indicates that the Bureau spent \$6,776.72 investigating this matter.

As set forth in Factual Finding 24, complainant seeks \$9,336.72 for the costs of investigation and enforcement in this matter. When all the factors set forth in *Zuckerman* are considered, the cost amount is reasonable. Respondent may make periodic payments pursuant to a schedule to be determined by the Bureau.

ORDER

1. Automotive Repair Dealer Registration Number ARD 280040, issued to Pro Smog, Hassan Alrawashdeh, Owner, is revoked.
2. Smog Check, Test Only, Station License Number 280040 issued to Pro Smog, Hassan Alrawashdeh, Owner, is revoked.
3. Smog Check Inspector License Number EO 637726, issued to Hassan Alrawashdeh, is revoked.
4. The above registration and license revocations, however, are stayed, and respondent is placed on probation for five years, subject to the following terms and conditions:

- a) Automotive Repair Dealer Registration Number ARD 280040, issued to Pro Smog, Hassan Alrawashdeh, Owner, is suspended for 15 consecutive days beginning on the effective date of the Decision and Order.
- b) Smog Check, Test Only, Station License Number 280040 issued to Pro Smog, Hassan Alrawashdeh, Owner, is suspended for 15 consecutive days beginning on the effective date of the Decision and Order.
- c) Smog Check Inspector License Number EO 637726, issued to Hassan Alrawashdeh, is suspended for 15 consecutive days beginning on the effective date of the Decision and Order.
- d) Obey All Laws. During the period of probation, respondent shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by respondent.
- e) Posting of Sign. During the period of suspension, Respondent shall prominently post a sign or signs, provided by BAR, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign or signs shall be conspicuously displayed in a location or locations open to and frequented by customers. The location(s) of the sign(s) shall be approved by BAR and shall remain posted during the entire period of actual suspension.
- f) Quarterly Reporting. During the period of probation, respondent shall report either by personal appearance or in writing as determined by the Bureau on a schedule set by Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.
- g) Report Financial Interests. Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to section 9884.6 of the Business and Professions Code.
- h) Access to Examine Vehicles and Records. Respondent shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

i) Tolling of Probation. If, during probation, respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, respondent shall notify the Bureau in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

j) Violation of Probation. If respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

k) Maintain Valid License. Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with the Bureau, including any period during which suspension or probation is tolled. If respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by respondent within 30 days of that date. If respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal respondent's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

l) Cost Recovery. Respondent shall pay the Bureau of Automotive Repair \$9,336.72 for the reasonable costs of the investigation and enforcement of case No. 79/16-13138. Respondent shall make such payment according to a payment schedule promulgated by the Bureau, to be completed no later than six (6) months before probation terminates. Respondent shall make payment by check or money order payable to the Bureau of Automotive

Repair and shall indicate on the check or money order that it is for cost recovery payment for case No. 79/16-13138. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

m) Completion of Probation. Upon successful completion of probation, respondent's affected registration and license will be fully restored or issued without restriction, if respondent meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

n) License Surrender. Following the effective date of a decision that orders a stay of invalidation or revocation, if respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent may request that the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of the surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If respondent applies to the Bureau for a registration or license at any time after that date, respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

o) Training Courses. During the period of probation, respondent shall attend and successfully complete a Bureau-specified and Bureau-approved training course in inspection, diagnosis and/or repair of emission systems failures and engine performance, applicable to the class of license held by the respondent. Respondent shall provide to the Bureau proof of enrollment in the course within 30 days of the effective date of the decision, and proof of successful course completion within 180 days of the effective date of the decision. Failure to provide proof of enrollment and/or successful course completion to the Bureau within the timeframes specified shall constitute a violation of probation, and respondent shall be prohibited from

issuing any certificate of compliance or noncompliance until such proof is received.

Within 60 days of the effective date of a decision, respondent shall attend a Write It Right presentation provided by a Bureau Representative, at the location, date, and time determined by the Bureau.

p) Notification to Employer. When performing services that fall within the scope of his or her license, respondent shall provide each of his or her current or future employers a copy of the decision and the underlying Accusation or Statement of Issues before commencing employment. Notification to respondent's current employer shall occur no later than the effective date of the decision. Respondent shall submit to the Bureau, upon request, satisfactory evidence of compliance with this term of probation.

q) Restriction on inspecting vehicles requiring Smog Check certification at a STAR station. Respondent shall not be permitted to issue certificates of compliance for any vehicles requiring Smog Check certification at a STAR station for their biennial Smog Check pursuant to Section 44010.5 or 44014.7 under the Health and Safety Code.

r) Supervision Requirements. Respondent shall not delegate his supervisory duties, as they relate to the business activities relevant to the probationary registration and/or license, to another person during the period of probation. Any persons employed by respondent to carry out such business activities shall be directly supervised by respondent. In the event that a bona fide medical condition arises during the period of probation, which temporarily prevents respondent from exercising direct supervision over employees, notice and medical substantiation of the condition shall be submitted to the Bureau within ten (10) days of the medical affirmation of the condition.

DATED: June 6, 2018

DocuSigned by:
Heather M. Rowan
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HEATHER M. ROWAN
Administrative Law Judge
Office of Administrative Hearings

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

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15 Fresno, CA 93710
4485 E. Belmont Ave.
16 Fresno, CA 93702

ACCUSATION

17 Automotive Repair Dealer Reg. No. ARD
280040
18 Smog Check Test Only Station License No.
TC 280040

19 and

20 **HASSAN MOHAMMAD**
21 **ALRAWASHDEH**
6076 N. 6th St.
22 Fresno, CA 93710

23 Smog Check Inspector License No. EO
637726

24 Respondents.
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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about April 23, 2015, the Director of Consumer Affairs (Director) issued
6 Automotive Repair Dealer Registration Number ARD 280040 to Hassan Mohammad
7 Alrawashdeh (Respondent), owner of Pro Smog. The registration was in full force and effect at
8 all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

9 3. On or about May 21, 2015, the Director issued Smog Check Test Only Station
10 License Number TC 280040 to Respondent, owner of Pro Smog. The Smog Check Test Only
11 Station License was in full force and effect at all times relevant to the charges brought herein and
12 will expire on April 30, 2018, unless renewed.

13 4. On or about January 12, 2015, the Director issued Smog Check Inspector License
14 Number EO 637726 to Respondent. The Smog Check Inspector License was in full force and
15 effect at all times relevant to the charges brought herein and will expire on December 31, 2018,
16 unless renewed.

17 **JURISDICTION**

18 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
19 the Director may revoke an automotive repair dealer registration.

20 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
21 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
22 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
23 invalidating (suspending or revoking) a registration

24 7. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
25 part, that the Director has all the powers and authority granted under the Automotive Repair Act
26 for enforcing the Motor Vehicle Inspection Program.

27 8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
28 suspension of a license by operation of law, or by order or decision of the Director of Consumer

Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

9. Health & Saf. Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

STATUTORY AND REGULATORY PROVISIONS

10. Bus. & Prof. Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions 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.

(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 by the exercise of reasonable care should be known, to be untrue or misleading.

...

(4) Any other conduct that constitutes fraud.

...

(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 an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

11. Bus. & Prof. Code section 22, subdivision (a), states:

"Board" as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

12. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

13. Health & Saf. Code section 44072.2 states, in pertinent part:

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 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

14. Health & Saf. Code section 44072.10 states, in pertinent part:

...

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

...

(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter

15. Health & Saf. Code section 44024.5, subdivision (a), states:

The department shall compile and maintain statistical and emissions profiles and data from motor vehicles that are subject to the motor vehicle inspection program. The department may use data from any source, including remote sensing data, in use data, and other motor vehicle inspection program data, to develop and confirm the validity of the profiles, to evaluate the program, and to assess the performance of smog check stations. The department shall undertake these requirements directly or seek a qualified vendor for these services.

16. Health & Saf. Code section 44037 states, in pertinent part:

(a) The department shall compile and maintain records, using the sampling methodology necessary to ensure their scientific validity and reliability, of tests and repairs performed by qualified smog check technicians at licensed smog check stations pursuant to this chapter on all of the following information:

(1) The motor vehicle identification information and the test data collected at the station.

...

(5) Data received and compiled through the use of the centralized computer database and computer network to be established pursuant to Section 44037.1, and any other information determined to be essential by the department for program enhancement to achieve greater efficiency, consumer protection, cost-effectiveness, convenience, or emission reductions

1 17. Health & Saf. Code section 44037.1 states, in pertinent part:

2 (a) On or before January 1, 1995, the department shall design and
3 establish the equipment necessary to operate a centralized computer data base and
4 computer network that is readily accessible by all licensed smog check technicians on
5 a real time basis.

6 (b) The centralized computer data base and network shall be designed
7 with all of the following capabilities:

8 ...

9 (2) To provide smog check technicians and the department with
10 information as to the date and result of prior smog check tests performed on each
11 vehicle to discourage vehicle owners from shopping for certificates of compliance
12 and to permit the department to identify smog check stations for further investigation
13 as potential violators of this chapter.

14 (3) To provide the department with data on the failure rates and repair
15 effectiveness for vehicles of each make and model year on a statewide basis, and by
16 smog check station and technician, to facilitate identification of smog check stations
17 and technicians as potential violators of this chapter.

18 ...

19 (8) To be compatible with the department's recordkeeping and
20 compilation requirements established by Section 44037.

21 ...

22 (c) After January 1, 1995, each smog check station shall transmit vehicle
23 data emission test results to the department's centralized data base. Each smog check
24 station shall also transmit vehicle data and emission measurements made before and
25 after repair

26 18. California Code of Regulations, title 16, section 3340.17 states, in pertinent part:

27 ...

28 (c) Vehicle data and test results from the OBD Inspection System (OIS)
shall be transmitted to the bureau's centralized database

COST RECOVERY

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

REVIEW OF OIS TEST DATA FOR PRO SMOG

Background

20. On March 9, 2015, California's Smog Check Program was updated to keep pace with ever-advancing technology. The program update requires the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer.

21. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used to input technician information, the vehicle identification number, and DMV renewal information. The vehicle identification number (VIN) that is physically present on all vehicles is required to be programmed into the vehicle's On-Board Diagnostics – Generation II (OBD II) on 2005 and newer vehicles, and on many occasions was programmed into the OBD II computer in earlier model-years. The electronically programmed VIN is referred to as the "eVIN," is captured by the Bureau during a smog check inspection, and should match the physical VIN on the vehicle. The printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection results and the Smog Check Certificate of Compliance Number for passing vehicles. Data retrieved and recorded during an OIS smog check includes the eVIN, the communication protocol¹, and the number of Parameter Identifications (PID's)².

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Factual Allegations

¹ The OBD II communication protocol describes the specified communication "language" used by the OBD II computer to communicate to scan tools and other devices such as the BAR-OIS. The communication protocol is programmed into the OBD II computer during manufacture and does not change.

² PID's are data points reported by the OBD II computer to the scan tool or BAR-OIS (for example, engine speed (rpm), vehicle speed, engine temperature, etc.) The PID count is the number of data points reported by the OBD II computer and is programmed during manufacture.

1 22. Bureau Representative D. B. reviewed OIS test data pertaining to smog inspections
2 conducted at Respondent's smog check facility, Pro Smog. D. B. found that the facility's smog
3 check technician, Respondent, performed smog inspections on the four vehicles identified below
4 using a method known as "clean plugging,"³ resulting in the issuance of fraudulent certificates of
5 compliance for the vehicles.

6 **Vehicle 1:**

7 23. The OIS test data showed that on July 18, 2016, Respondent allegedly performed a
8 smog inspection on a 2000 Toyota Tundra Limited ("Vehicle 1"), resulting in the issuance of
9 electronic Smog Certificate of Compliance No. ZH117964C. The OIS test details for Vehicle 1
10 revealed the following:

11 a. The eVIN is not reported during smog inspections on 2000 Toyota Tundra Limited
12 vehicles.

13 b. The eVIN recorded during the inspection did not match the actual VIN on the vehicle.

14 c. The PID count and communication protocol recorded during the smog check on
15 Vehicle 1 were not consistent with the PID count and expected communication protocol for 2000
16 Toyota Tundra Limited vehicles.

17 24. The Bureau's VID data showed that on June 30, 2016, a smog inspection was
18 conducted on Vehicle 1 at another smog check facility, and that no eVIN was transmitted to the
19 VID during the inspection. Further, in that earlier test, the communication protocol and PID
20 count recorded during the inspection on Vehicle 1 were consistent with the communication
21 protocol and PID count for that make and model vehicle. D. B. therefore concluded that the DAD
22 was not connected to Vehicle 1 during the alleged smog inspection of July 18, 2016, resulting in
23 the issuance of a fraudulent smog certificate of compliance for Vehicle 1.

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27 ³ Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another
28 certificate of compliance to another vehicle that is not in compliance with the Smog Check
Program and/or is not present for testing.

1 25. Additionally, the Bureau's VID data showed that on April 14, 2016, Respondent
2 performed a smog inspection on a 2006 Toyota Tundra Double Cab SR5 at Pro Smog. The VID
3 data revealed the following:

4 a. The eVIN for the 2006 Toyota Tundra Double Cab that was transmitted to the VID
5 was the same eVIN that was recorded during the alleged smog inspection on Vehicle 1 on July
6 18, 2016.

7 b. The communication protocol and PID count recorded during the inspection on the
8 2006 Toyota Tundra Double Cab were consistent with the communication protocol and PID count
9 recorded during the inspection on Vehicle 1 on July 18, 2016.

10 26. D. B. concluded that Respondent used the 2006 Toyota Tundra Double Cab's
11 properly functioning OBD II system during the alleged smog inspection on Vehicle 1, resulting in
12 the issuance of a fraudulent smog certificate of compliance for Vehicle 1 on July 18, 2016.

13 **Vehicle 2:**

14 27. The OIS test data showed that on October 1, 2016, Respondent allegedly performed a
15 smog inspection on a 2000 Chevrolet Silverado K1500 ("Vehicle 2"), resulting in the issuance of
16 electronic Smog Certificate of Compliance No. QE523497C. The OIS test details for Vehicle 2
17 showed the following:

18 a. The eVIN is not reported during smog inspections on 2000 Chevrolet Silverado
19 K1500 vehicles.

20 b. The eVIN recorded during the inspection did not match the physical VIN on the
21 vehicle.

22 c. The PID count recorded during the smog check on Vehicle 2 was not consistent with
23 the PID count for 2000 Chevrolet Silverado K1500 vehicles.

24 28. D. B. concluded that the DAD was not connected to Vehicle 2 during the alleged
25 smog inspection on October 1, 2016.

26 29. The Bureau's VID data showed that on October 1, 2016, Respondent conducted a
27 smog inspection on a 2001 GMC Yukon at Pro Smog and that the eVIN, communication
28 protocol, and PID count recorded during the inspection were the same as those transmitted during

1 the alleged smog check on Vehicle 2 on October 1, 2016. D. B. therefore concluded that
2 Respondent used the 2001 GMC Yukon's properly functioning OBD II system during the smog
3 inspection of Vehicle 2 on October 1, 2016, resulting in the issuance of a fraudulent smog
4 certificate of compliance for Vehicle 2.

5 **Vehicle 3:**

6 30. The OIS test data showed that on October 27, 2016, Respondent allegedly performed
7 a smog inspection on a 2005 Toyota Tundra Access Cab SR5 ("Vehicle 3"), resulting in the
8 issuance of electronic Smog Certificate of Compliance No. QG381029C. The OIS test details for
9 Vehicle 3 showed the following:

10 a. The eVIN recorded during the inspection did not match the physical VIN on the
11 vehicle.

12 b. The PID count recorded during the smog check on Vehicle 3 was not consistent with
13 the PID count for 2005 Toyota Tundra Access Cab SR5 vehicles.

14 31. D. B. concluded that the DAD was not connected to Vehicle 3 during the alleged
15 smog inspection of October 27, 2016.

16 32. The Bureau's VID data showed that on January 20, 2015, a smog inspection was
17 conducted on a 2006 Toyota Tacoma Prerunner Double Cab at another smog check facility, and
18 that eVIN, communication protocol, and PID count recorded during the inspection were the same
19 as those transmitted during the alleged smog check on Vehicle 3 on October 27, 2016. D. B.
20 therefore concluded that Respondent used the 2006 Toyota Tacoma Prerunner Double Cab's
21 properly functioning OBD II system during the alleged smog inspection of Vehicle 3 on October
22 27, 2016, resulting in the issuance of a fraudulent smog certificate of compliance for Vehicle 3.

23 **Vehicle 4:**

24 33. The OIS test data showed that on November 7, 2016, Respondent allegedly
25 performed a smog inspection on a 2006 Honda CR-V LX ("Vehicle 4"), resulting in the issuance
26 of electronic Smog Certificate of Compliance No. QG654089C. The OIS test details for Vehicle
27 4 showed the following:

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1 a. The eVIN recorded during the inspection did not match the physical VIN on the
2 vehicle.

3 b. The communication protocol and PID count recorded during the alleged smog check
4 on Vehicle 4 were not consistent with the communication protocol and PID count for 2006 Honda
5 CR-V LX vehicles.

6 34. D. B. concluded that the DAD was not connected to Vehicle 4 during the alleged
7 smog inspection of November 7, 2016.

8 35. The Bureau's VID data showed that on November 2, 2016, Respondent conducted a
9 smog inspection on a 2008 Honda Civic LX at Pro Smog, and that the eVIN transmitted to the
10 VID was the same eVIN that was recorded during the alleged smog inspection on Vehicle 4 on
11 November 7, 2016. Further, the communication protocol and PID count recorded during the
12 inspection on the 2008 Honda Civic LX were consistent with the communication protocol and
13 PID count recorded during the alleged smog inspection on Vehicle 4 on November 7, 2016. D. B.
14 therefore concluded that Respondent used the 2008 Honda Civic LX's properly functioning OBD
15 II system during the alleged smog inspection on Vehicle 4 on November 7, 2016, resulting in the
16 issuance of a fraudulent smog certificate of compliance for Vehicle 4.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 36. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
20 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which
21 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
22 follows: Respondent certified that Vehicles 1 through 4, identified in paragraphs 23 through 35
23 above, had passed inspection and were in compliance with applicable laws and regulations. In
24 fact, Respondent conducted the smog inspections on the vehicles using clean-plugging methods in
25 that he substituted or used a different vehicle during the inspections in order to issue smog
26 certificates of compliance for the vehicles, and did not test or inspect the vehicles as required by
27 Health & Saf. Code section 44012.

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1 b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
2 conducted on Vehicles 1 through 4, identified in paragraphs 23 through 35 above, in accordance
3 with the Bureau's specifications.

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6 40. Respondent's smog check test only station license is subject to disciplinary action
7 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
8 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
9 certificates of compliance for Vehicles 1 through 4, identified in paragraphs 23 through 35 above,
10 without ensuring that bona fide inspections were performed of the emission control devices and
11 systems on the vehicles, thereby depriving the People of the State of California of the protection
12 afforded by the Motor Vehicle Inspection Program.

13 **SIXTH CAUSE FOR DISCIPLINE**

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

15 41. Respondent's smog check inspector license is subject to disciplinary action pursuant
16 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
17 section 44012 of that Code in a material respect, as follows: Respondent failed to perform the
18 emission control tests on Vehicles 1 through 4, identified in paragraphs 23 through 35 above, in
19 accordance with procedures prescribed by the department.

20 **SEVENTH CAUSE FOR DISCIPLINE**

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

22 42. Respondent's smog check inspector license is subject to disciplinary action pursuant
23 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
24 provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test Vehicles 1
26 through 4, identified in paragraphs 23 through 35 above, in accordance with Health & Saf. Code
27 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

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b. **Section 3340.42:** Respondent failed to conduct the required smog tests on Vehicles 1 through 4, identified in paragraphs 23 through 35 above, in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

43. Respondent's smog check inspector license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance for Vehicles 1 through 4, identified in paragraphs 23 through 35 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

MATTERS IN AGGRAVATION

44. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges as follows:

a. On or about September 30, 2015, the Bureau issued Citation No. C2015-2293 against Respondent for violating Health & Saf. Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department). On or about August 27, 2015, Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing Catalytic Converter (CAT). The Bureau assessed a civil penalty of \$1,000 against Respondent for the violation. Respondent paid the fine on January 28, 2016.

b. On or about September 30, 2015, the Bureau issued Citation No. M2015-2294 against Respondent for violating Health and Safety Code section 44032. On or about August 27, 2015, Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing Catalytic Converter (CAT). The Bureau ordered Respondent to complete an eight-hour certified retraining course. Respondent completed the training on February 13, 2016.

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1 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
2 Division 2b of the Health and Safety Code in the name of Hassan Mohammad Alrawashdeh

3 6. Ordering Hassan Mohammad Alrawashdeh, owner of Pro Smog, to pay the Director
4 of Consumer Affairs the reasonable costs of investigation and enforcement of this case, pursuant
5 to Business and Professions Code section 125.3; and

6 7. Taking such other and further action as deemed necessary and proper.
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10 DATED: June 29, 2017

Patrick Dorais

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

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