

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

In the Matter of the Accusation Against:

Case No. 79/16-3374

**ALL STAR SMOG,
ABDUL MONAEM SHAH, Owner
993 W. Valley Blvd. Unit #206
Rialto, CA 92376**

DEFAULT DECISION AND ORDER

And

P.O. Box 2586
Fontana, CA 92334

Automotive Repair Dealer Registration No.
ARD 280549

**Smog Check Station License No. TC
280549;**

ABDUL MONAEM SHAH
993 W. Valley Blvd. Unit #206
Rialto, CA 92316
Smog Check Inspector License No.
638592

Respondents.

FINDINGS OF FACT

1. On or about October 3, 2016, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/16-3374 against All Star Smog; Abdul Monaem Shah (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

1 2. On June 12, 2015, the Bureau of Automotive Repair (Bureau) issued Automotive
2 Repair Dealer Registration No. ARD 280549 to Respondent. The Automotive Repair Dealer
3 Registration expired on June 30, 2016 and was cancelled. This lapse in licensure, however,
4 pursuant to Business and Professions Code section 9884.13, does not deprive the Board of its
5 authority to institute or continue this disciplinary proceeding.

6 3. On June 26, 2015, the Bureau of Automotive Repair issued Smog Check Test Only
7 Station License No. TC 280549 to Respondent. The Smog Check Test Only Station License
8 expired on June 30, 2016, and was cancelled. This lapse in licensure, however, pursuant to
9 Business and Professions Code section 9884.13, does not deprive the Board of its authority to
10 institute or continue this disciplinary proceeding.

11 4. On September 24, 2015, the Bureau issued Smog Check Inspector License No. EO
12 638592 to Abdul Monaem Shah (Respondent Shah). The license was in full force and effect at all
13 times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

14 5. On or about October 12, 2016, Respondent All Star Smog/Shah was served by
15 Certified and First Class Mail with copies of the Accusation No. 79/16-3374, Statement to
16 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
17 Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant
18 to Business and Professions Code section 136, is required to be reported and maintained with the
19 Bureau. Respondent's address of record was and is: P.O. Box 2586, Fontana, CA 92334.

20 6. On or about July 17, 2017, Shah was served by Certified and First Class Mail with
21 copies of the Accusation No. 79/16-3374, Statement to Respondent, Notice of Defense, Request
22 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
23 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
24 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
25 record was and is: 993 W. Valley Blvd., Unit #206, Rialto, CA 92316.

26 7. Service of the Accusation was effective as a matter of law under the provisions of
27 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
28 124.

1 8. On or about October 31, 2016 and November 14, 2016, the aforementioned
2 documents delivered to Respondent All Star Smog/Shah to P.O. Box 2586, Fontana, CA 92334
3 were returned by the U.S. Postal Service marked "Not deliverable as addressed", unable to
4 forward" and "undeliverable as addressed", respectively.

5 9. On or about August 9, 2017, the aforementioned documents delivered to Respondent
6 to 993 W. Valley Blvd., Unit #206, Rialto, CA 92316 were returned by the U.S. Postal Service
7 marked "Unclaimed – Unable to Forward". The addresses on the documents were the same as the
8 addresses on file with the Bureau. Respondent failed to maintain an updated address and/or
9 addresses with the Bureau and the Bureau has made attempts to serve the Respondent at the
10 addresses on file. Respondent has not made himself available for service and therefore, has not
11 availed himself of his right to file a notice of defense and appear at a hearing.

12 10. Government Code section 11506(c) states, in pertinent part:

16 11. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 79/16-3374.

19 12. California Government Code section 11520(a) states, in pertinent part:

23 13. Pursuant to its authority under Government Code section 11520, the Director, after
24 having reviewed the proof of service dated October 12, 2016, signed by Stella Esquivel (and the
25 return envelopes, and proof of service July 17, 2017, served by Kyle Tetlow (and return
26 envelopes), finds Respondent is in default. The Director will take action without further hearing
27 and, based on Accusation, No. 79/16-3374, proof of service and on the Affidavit of Bureau
28 Representative Alfred Denno, finds that the allegations in Accusation are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent All Star Smog; Abdul Monaem Shah has subjected his Automotive Repair Dealer Registration No. ARD 280549, Smog Check Test Only Station License No. TC 280549 and Smog Check Inspector License No. EO 638592, to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive Repair Dealer Registration ARD 280549, Smog Check Test Only Station License No. TC 280549 and Smog Check Inspector License EO 638592 based upon the following violations alleged in the Accusation which are supported by the evidence contained in the affidavit of Bureau Representative Alfred Denno in this case:

a. Respondent's Automotive Repair Dealer Registration is subject to discipline for Untrue or Misleading Statements, pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1) and Health & Safety Code section 44012;

b. Respondent's Automotive Repair Dealer Registration is subject to discipline for Fraud, pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4);

c. Respondent's Automotive Repair Dealer Registration is subject to discipline for Material Violation of the Automotive Repair Act, pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6);

d. Respondent's Smog Check Test Only Station License is subject to discipline for Violations of the Motor Vehicle Inspection Program, pursuant to Health and Safety Code sections 44072.2, subdivision (a), 44102, subdivision (a), 44015, subdivision (b) and 44059;

e. Respondent's Smog Check Test Only Station License is subject to discipline for Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program, under Health and Safety Code section 44072.2, subdivision (c) and California Code of Regulations, title 16, sections 3340.24, subdivision (c), 3340.35, subdivision (c), 3340.42, 3340.42.2, subdivision (c)(7) and 3340.42.2, subdivision (c)(8);

1 f. Respondent's Smog Check Test Only Station License is subject to discipline for
2 Dishonesty, Fraud or Deceit, pursuant to Health and Safety Code section 44072.2, subdivision
3 (d);

4 g. Respondent's Smog Check Inspector License is subject to discipline for Violations of
5 the Motor Vehicle Inspection Program, pursuant to Health and Safety Code sections 44072.2,
6 subdivision (a), 44012 and 44059;

7 h. Respondent's Smog Check Inspector License is subject to discipline for Failure to
8 Comply with Regulations Pursuant to the Motor Vehicle Inspection Program, under Health and
9 Safety Code section 44072.2, subdivision (c) and California Code of Regulations, title 16,
10 sections 3340.24, subdivision (c), 3340.30, subdivision (a), 3340.41, subdivision (c) and 3340.42;
11 and

12 i. Respondent's Smog Check Inspector License is subject to discipline for Dishonesty,
13 Fraud or Deceit, pursuant to Health and Safety Code section 44072.2, subdivision (d).

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 280549, Smog Check Test Only Station License No. TC 280549 and Smog Check Inspector License EO 638592 heretofore issued to Respondent All Star Smog; Abdul Monaem Shah, are revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
8 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
9 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on
10 a showing of good cause, as defined in the statute.

This Decision shall become effective on May 23, 2018

It is so ORDERED April 16, 2018

52282592.DOC; DOJ Matter ID:LA2016601136
Attachment: Exhibit A: Accusation

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

Exhibit A

Accusation documents
and copies of returned envelopes

1 KAMALA D. HARRIS
2 Attorney General of California
3 LINDA K. SCHNEIDER
4 Senior Assistant Attorney General
5 LINDA L. SUN
6 Supervising Deputy Attorney General
7 State Bar No. 207108
8 300 So. Spring Street, Suite 1702
9 Los Angeles, CA 90013
10 Telephone: (213) 620-3005
11 Facsimile: (213) 897-2804
12 *Attorneys for Complainant*

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. *79/16 - 3374*

ALL STAR SMOG,
ABDUL MONAEM SHAH, Owner
993 W. Valley Blvd. Unit #206
Rialto, CA 92376

ACCUSATION
(SMOG CHECK)

And

P.O. Box 2586
Fontana, CA 923334
Automotive Repair Dealer Registration No.
ARD 280549
Smog Check Station License No. TC
280549;

ABDUL MONAEM SHAH
993 W. Valley Blvd. Unit #206
Rialto, CA 92376
Smog Check Inspector License No. EO
638592;

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 2. On or about June 12, 2015, the Bureau of Automotive Repair issued Automotive
2 Repair Dealer Registration Number ARD 280549 to All Star Smog; Abdul Monaem Shah
3 (Respondent). The Automotive Repair Dealer Registration expired on June 30, 2016, and was
4 cancelled.

5 **All Star Smog**

6 3. On or about June 26, 2015, the Director of Consumer Affairs ("Director") issued
7 Automotive Repair Dealer Registration ("registration") No. ARD 280549 to Abdul Monaem Shah
8 Respondent, doing business as All Star Smog ("Respondent All Star"). The registration expired
9 on July 31, 2016, and was cancelled.

10 **Abdul Monaem Shah**

11 4. On September 24, 2015, the Bureau issued Smog Check Inspector License No. EO
12 638592 to Abdul Monaem Shah (Respondent Shah). The license was in full force and effect at all
13 times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

14 **JURISDICTION**

15 5. Business and Professions Code (Bus. & Prof. Code) section 477 provides, in pertinent
16 part, that "Board" includes "bureau," "commission," "committee," "department," "division,"
17 "examining committee," "program," and "agency." "License" includes certificate, registration or
18 other means to engage in a business or profession regulated by the Bus. & Prof. Code.

19 6. Bus. & Prof. Code section 9884.7, subdivision (a) provides that the Director may
20 revoke an automotive repair dealer registration.

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

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

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

STATUTORY PROVISIONS

6 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.

25 || 11. Bus. & Prof. Code section 9889.22 states as follows:

12. Section 44012 of the Health and Safety Code provides, in pertinent part:

2 The test at the smog check stations shall be performed in accordance with
3 procedures prescribed by the department and may require loaded mode dynamometer
4 testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard
5 diagnostic system, or other appropriate test procedures as determined by the
6 department in consultation with the state board. The department shall implement
7 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or
8 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no
9 earlier than January 1, 2013. However, the department, in consultation with the state
10 board, may prescribe alternative test procedures that include loaded mode
11 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems
12 that the department and the state board determine exhibit operational problems. The
13 department shall ensure, as appropriate to the test method, the following:

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

17 (f) A visual or functional check is made of emission control devices specified by
18 the department, including the catalytic converter in those instances in which the
19 department determines it to be necessary to meet the findings of Section 44001. The
20 visual or functional check shall be performed in accordance with procedures
21 prescribed by the department.

13. Health and Safety Code Section 44015 states, in pertinent part: "(b) If a vehicle
14 meets the requirements of Section 44012, a smog check station licensed to issue certificates shall
15 issue a certificate of compliance or a certificate of noncompliance."

16. Health and Safety Code Section 44032 states:

17 No person shall perform, for compensation, tests or repairs of emission
18 control devices or systems of motor vehicles required by this chapter unless the
19 person performing the test or repair is a qualified smog check technician and the test
20 or repair is performed at a licensed smog check station. Qualified technicians shall
21 perform tests of emission control devices and systems in accordance with Section
22 44012.

23. Health and Safety Code section 44059 states:

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

29. Health and Safety Code section 44072.2 states:

30 The director may suspend, revoke, or take other disciplinary action
31 against a license as provided in this article if the licensee, or any partner, officer, or
32 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.

(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.

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

17. Health and Safety 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 . . .

18. Health and Safety 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.

REGULATORY PROVISIONS

19. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c), states: "The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance."

20. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health & Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.”

1 21. CCR, title 16, section 3340.35, subdivision (c), provides, in pertinent part, that a
2 licensed station shall issue a certificate of compliance or noncompliance to the owner or operator
3 of any vehicle that has been inspected in accordance with the procedures specified in section
4 3340.42 of the California Code of Regulations and have all the required emission control
5 equipment and devices installed and functioning correctly.

6 22. CCR, title 16, section 3340.41, subdivision (c), states that no person shall enter into
7 the emissions inspection system any vehicle identification information or emission control system
8 identification data for any vehicle other than the one being tested. Nor shall any person
9 knowingly enter into the emissions inspection system any false information about the vehicle
10 being tested.

11 23. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
12 procedures which apply to all vehicles inspected in the State of California.

13 24. CCR, title 16, section 3340.42.2 provides, in relevant part:

14 (a) Effective until the implementation of subsection (c), Smog Check
15 stations and Smog Check technicians shall conduct tests and inspections in
16 accordance with the Bureau's BAR-97 Emissions Inspection System Specifications
17 referenced in subsections (a) and (b) of Section 3340.17. All applicable 1996 and
18 newer model-year spark ignition passenger vehicles and trucks under 14,001 Gross
Vehicle Weight Rating (GVWR) shall be given a test of the On-Board Diagnostic
(OBDII) systems. The OBDII test consists of a visual check of the Malfunction
Indicator Light (MIL) and a functional test of the readiness indicators and fault code
retrieval system.

19 (b) Effective until the implementation of subsection (c), model-year 1996
20 through 2000 vehicles having more than two (2) incomplete emissions related
21 readiness monitors, and vehicle model-years 2001 and newer having more than one
22 (1) incomplete emissions related readiness monitor shall fail the OBDII portion of the
inspection. All vehicle model-years 1996 and newer having more than two (2)
incomplete emissions related readiness monitors shall fail the OBDII portion of the
inspection.

23 (c) Starting on or after January 1, 2013, OBD equipped vehicles shall fail
24 the OBD inspection if any one of the following conditions occurs as applicable to the
vehicle:

25

26 (7) The vehicle's OBD system data is inappropriate for the vehicle being
27 tested;

28 (8) The vehicle's OBD system data does not match the original equipment
manufacturer (OEM) or an Air Resources Board (ARB) exempted OBD software

1
2 (d) For the purposes of this section:

3 (1) On-Board Diagnostics (OBD) means a system of vehicle component
4 and condition monitors controlled by an on-board computer designed to alert the
5 motorist when emission control components or vehicle emission systems are not
6 functioning properly.

7
8 25. CCR, title 16, section 3373 provides, in relevant part:

9 No automotive repair dealer or individual in charge shall, in filling out an
10 estimate, invoice, or work order, or record required to be maintained by section
11 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
12 information which will cause any such document to be false or misleading, or where
13 the tendency or effect thereby would be to mislead or deceive customers, prospective
14 customers, or the public.

15 **COST RECOVERY**

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

20 **DATA REVIEW**

21 27. On March 9, 2015, the Bureau implemented a policy change requiring the use of an
22 On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas
23 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer
24 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in
25 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in
26 addition to communication Protocol and Parameter ID (PID) differences with vehicles that have
27 been certified correctly that are the same make and model vehicles.

28 28. On or about February 11, 2016, a Bureau representative initiated an investigation
29 in which he reviewed OIS Test Data for All Star which revealed vehicles that had been certified
30 with a pattern of: differences between the VIN on the certified vehicle and the electronic VIN
31 (eVIN) that was transmitted as part of the smog inspection; incorrect vehicle communication
32 protocols; and incorrect communication Protocol and Parameter ID (PID) counts. The data from

1 the certified vehicles were compared to data of similar vehicles of the same year, make, and
2 model. The data comparison showed multiple discrepancies with thirteen (13) vehicles that were
3 all certified with either missing eVINS, incorrect vehicle communication protocols, and incorrect
4 PID counts, which confirms the vehicles receiving smog certificates were fraudulently tested
5 during the smog inspection using the clean plugging method.¹ The following chart illustrates the
6 documented clean plugging activities of Respondent Shah between February 10, 2016 and March
7 1, 2016:

Test Date	Vehicle Certified & VIN #	Certificate No.	Details*
(1) 02/10/2016	2007 Chrysler PT Cruiser Touring ED VIN #3A4FT58B27T550930	YX735345C	Test data does not support this vehicle.
(2) 02/10/2016	2005 Nissan Maxima SE/SL VIN #1N4BA41E85C870274	YX735348C	Test data does not support this vehicle.
(3) 02/10/2016	2005 Bentley Continental GT AWD VIN #SCBCR63W65C026147	YX735349C	Test data does not support this vehicle.
(4) 02/10/2016	2007 Volkswagen New GTI VIN # WVWHV71K77W113920	YX735350C	Test data does not support this vehicle.
(5) 02/10/2016	2009 Dodge Charger SXT VIN #2B3KA33V99H501316	YX744802C	Test data does not support this vehicle.

26 ¹ Clean plugging refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, Generation II, (OBD II) system, or another source, to generate passing diagnostic
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

1	(6) 02/10/2016	2006 Volvo XC90 VIN #YV4CY592761255722	YX744810C	Test data does not support this vehicle.
2	(7) 02/11/2016	2005 Chrysler 300C VIN#2C3AA63H55H146021	YX744814C	Test data does not support this vehicle.
3	(8) 02/11/2016	2005 Ford Expedition XLT VIN #1FMPU15515LA30588	YX744815C	Test data does not support this vehicle.
4	(9) 02/11/2016	2005 Mazda RX8 VIN#3A4FT58B27T550930	YX744816C	Test data does not support this vehicle.
5	(10) 02/11/2016	2000 Ford Expedition XLT VIN #1FMRU1560YLB27870	YX744817C	Test data does not support this vehicle.
6	(11) 02/15/16	2006 Nissan Titan XE/SE/LE VIN #1N6AA07A66N522950	YX891588C	Test data does not support this vehicle.
7	(12) 02/15/2016	2006 BMW 3251 VIN #WBAVB135X6PT24647	YX891594C	Test data does not support this vehicle.
8	(13) 03/01/2016	2008 Infiniti G35 VIN#JNKBV61E28M210867	YZ376633C	Test data does not support this vehicle.

23 * All vehicles certified by Respondent Shah.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 29. Respondent All Star's Automotive Repair Dealer Registration is subject to
27 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
28 Respondent Shah made or authorized statements which he knew or in the exercise of reasonable

1 care should have known to be untrue or misleading, as follows: Respondent Shah certified that
2 the 13 vehicles identified in paragraph 28 above, had passed inspection and were in compliance
3 with applicable laws and regulations. In fact, Respondent conducted the inspections on the
4 vehicles using clean-plugging methods in that he substituted or used a different vehicle(s) during
5 the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and
6 did not test or inspect the vehicles as required by Health & Safety Code section 44012.
7 Complainant refers to, and by this reference incorporates, the allegations contained in paragraph
8 28, as though set forth fully herein.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 30. Respondent All Star's Automotive Repair Dealer Registration is subject to
12 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
13 Respondent Shah committed acts that constitute fraud by issuing electronic smog certificates of
14 compliance for the 13 vehicles identified in paragraph 28 above, without performing bona fide
15 inspections of the emission control devices and systems on the vehicles, thereby depriving the
16 People of the State of California of the protection afforded by the Motor Vehicle Inspection
17 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
18 paragraph 28, as though set forth fully herein.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Material Violation of Automotive Repair Act)**

21 31. Respondent All Star's Automotive Repair Dealer Registration is subject to discipline
22 under Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent Shah failed in a
23 "material respect to comply with the provisions of this chapter or regulations adopted pursuant to
24 it", when he issued electronic certificates of compliance for the 13 vehicles identified in
25 paragraph 28 above, without performing bona fide inspections of the emission control devices
26 and systems on those vehicles, thereby depriving the People of the State of California of the
27 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
28 reference incorporates, the allegations contained in paragraph 28, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

32. Respondent All Star's Smog Check Test Only Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Shah failed to comply with the following sections of that Code:

Health & Safety Code Section 44012(a): Respondent failed to ensure that the emission control tests were performed on the 13 vehicles identified in paragraph 28 above, in accordance with procedures prescribed by the department.

Health & Safety Code Section 44015(b): Respondent issued electronic smog certificates of compliance for the 13 vehicles identified in paragraph 28 above, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health & Safety Code section 44012.

Health & Safety Code Section 44059: Respondent willfully made false entries in certificates of compliance for the 13 vehicles identified in paragraph 28 above, by certifying that the vehicles had been inspected when, in fact, they had not.

33. Complainant refers to, and by this reference incorporates, the allegations contained in paragraph 28, as though set forth fully herein.

FIFTH CAUSE FOR DISCIPLINE

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

34. Respondent All Star has subjected its Smog Check Test Only Station License to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), by failing to comply with the following sections of the California Code of Regulations, title 16:

Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued electronic smog certificates of compliance for the 13 vehicles identified in paragraph 28 above.

Section 3340.35, subdivision (c): Respondent issued electronic smog certificates of compliance for the 13 vehicles identified in paragraph 28 above, even though the vehicles had not been inspected in accordance with section 3340.42.

1 **Section 3340.42:** Respondent failed to ensure that the required smog tests were conducted
2 on the 13 vehicles identified in paragraph 28 above, in accordance with the Bureau's
3 specifications.

4 **Section 3340.42.2, subdivision (c)(7):** Respondent failed to conduct tests and inspections
5 in accordance with the vehicle's OBD II system data on the 13 vehicles identified in paragraph 28
6 above, in accordance with the Bureau's specifications.

7 **Section 3340.42.2, subdivision (c)(8):** The vehicle's OBD II system data on the 13
8 vehicles identified in paragraph 28 above did not match the original equipment manufacturer
9 (OEM) or an Air Resources Board (ARB) exempted software configuration.

10 35. Complainant refers to, and by this reference incorporates, the allegations contained in
11 paragraph 28, as though set forth fully herein.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

14 36. Respondent All Star has subjected its Smog Check Test Only Station License to
15 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
16 Respondent Shah committed dishonest, fraudulent, or deceitful acts whereby another was injured
17 by issuing electronic smog certificates of compliance for the 13 vehicles identified in paragraph
18 28 above, without performing bona fide inspections of the emission control devices and systems
19 on the vehicles, thereby depriving the People of the State of California of the protection afforded
20 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
21 incorporates, the allegations contained in paragraph 28, as though set forth fully herein.

22 **SEVENTH CAUSE FOR DISCIPLINE**

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

24 37. Respondent Shah's Smog Check Inspector License is subject to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he failed to comply
26 with Health and Safety Code sections 44012 and 44059 in a material respect, as follows:
27 Respondent Shah failed to perform the emission control tests on the 13 vehicles identified in
28 paragraph 28 above, in accordance with procedures prescribed by the department, and entered

1 false information for electronic certificates of compliance by certifying the 13 vehicles had been
2 inspected as required when they had not. Complainant refers to, and by this reference
3 incorporates, the allegations contained in paragraph 28, as though set forth fully herein.

4 **EIGHTH CAUSE FOR DISCIPLINE**

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

7 38. Respondent Shah's Smog Check Inspector License is subject to disciplinary action
8 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent failed to
9 comply with the following sections of the California Code of Regulations, title 16:

10 **Section 3340.24, subdivision (c):** Respondent Shah falsely or fraudulently issued
11 electronic smog certificates of compliance for the 13 vehicles identified in paragraph 28 above.

12 **Section 3340.30, subdivision (a):** Respondent Shah failed to inspect and test the 13
13 vehicles identified in paragraph 28 above, in accordance with Health and Safety Code section
14 44012.

15 **Section 3340.41, subdivision (c):** Respondent Shah entered false information into the
16 Emissions Inspection System for the 13 vehicles identified in paragraph 28 above.

17 **Section 3340.42:** Respondent Shah failed to conduct the required smog tests on the 13
18 vehicles identified in paragraph 28 above, in accordance with the Bureau's specifications.

19 39. Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraph 28, as though set forth fully herein.

21 **NINTH CAUSE FOR DISCIPLINE**

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

23 40. Respondent Shah's Smog Check Inspector License is subject to disciplinary action
24 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that he committed
25 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
26 certificates of compliance for the 13 vehicles identified in paragraph 28 above, without
27 performing bona fide inspections of the emission control devices and systems on the vehicles,
28 thereby depriving the People of the State of California of the protection afforded by the Motor

1 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
2 allegations contained in paragraph 28, as though set forth fully herein.

OTHER MATTERS

4 41. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
5 suspend, revoke or place on probation the registration for all places of business operated in this
6 state by Respondent Shah, owner of All Star, upon a finding that he has, or is, engaged in a course
7 of repeated and willful violations of the laws and regulations pertaining to an automotive repair
8 dealer.

9 42. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
10 License Number TC 280549, issued to Respondent Shah, owner of All Star, is revoked or
11 suspended, any additional license issued under the same chapter in the name of said licensee may
12 be likewise revoked or suspended by the Director.

13 43. Pursuant to Health & Safety Code section 44072.8, if Respondent Shah's Smog Check
14 Inspector License No. EO 638592 is revoked or suspended, any additional license issued under
15 this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

19 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
20 280549, issued to All Star Smog; Abdul Monaem Shah;

21 2. Revoking or suspending Smog Check Test Only Station License Number TC 280549,
22 issued to All Star Smog; Abdul Monaem Shah;

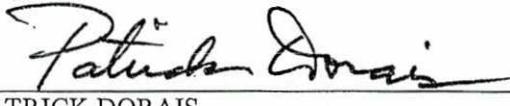
23 3. Revoking or suspending Smog Check Inspector License Number EO 638592, issued
24 to Abdul Monaem Shah;

25 4. Ordering Abdul Monaem Shah to pay the Bureau of Automotive Repair the
26 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
27 Professions Code section 125.3; and

28 | //

1 5. Taking such other and further action as deemed necessary and proper.

2
3 DATED: October 3, 2016

4 
5 PATRICK DORAIS
6 Chief
7 Bureau of Automotive Repair
8 Department of Consumer Affairs
9 State of California
10 *Complainant*

11 LA2016601136
12 52227058.docx

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

Case Name: **IN THE MATTER OF THE ACCUSATION AGAINST:
ALL STAR SMOG; ABDUL MONAEM SHAH**

BAR Case No.: **79/16-3374**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On **October 12, 2016**, I served the attached **STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 copies); GOV'T CODE §§ 11507.5, 11507.6, & 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 copies); GOV'T CODE §§ 11507.5, 11507.6, & 11507.7** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

**Abdul Monaem Shah
All Star Smog
P.O. Box 2586
Fontana, CA 92334
Respondent**

Certified Article Number

9414 7266 9904 2062 6307 94

SENDERS RECORD

**Abdul Monaem Shah
993 W. Valley Blvd., Unit #206
Rialto, CA 92376
Respondent**

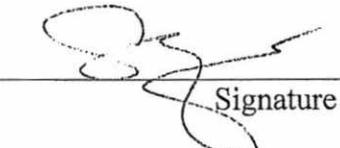
Certified Article Number

9414 7266 9904 2062 6308 00

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **October 12, 2016**, at Los Angeles, California.

**Stella Esquivel
Declarant**


Signature