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7

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

11 In the Matter of the Accusation Against:

Case No. 79/15-64

12 **SALEH ISAM ABU HIJLEH and AMEEN**
13 **MUSA RIZK, PARTNERS, dba D AND D**
14 **AUTO REPAIR & SERVICE**
15 **15015 Leffingwell Rd.**
Whittier, CA 90604

A C C U S A T I O N

16 **Automotive Repair Dealer Registration No.**
ARD 219654
17 **Smog Check Station License No. RC 219654**
18 **Brake Station License No. BS 219654**
Lamp Station License No. LS 219654,

19 **and**

20 **SALEH ISAM ABUHIJLEH aka SALEH**
ISAM ABU HIJLEH
21 **11863 Abington St.**
Riverside, CA 92503

22 **Smog Check Inspector License No. EO**
31680 (formerly Advanced Emission
23 **Specialist Technician License Number EA**
31680)
24 **Smog Check Repair Technician License No.**
25 **EI 31680 (formerly Advanced Emission**
Specialist Technician License Number EA
26 **31680**
Brake Adjuster License No. BA 31680
Lamp Adjuster License No. LA 31680

27 Respondent.
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1 Complainant alleges:
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3 **PARTIES**

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

6 **ARD & STATION LICENSES**

7 2. On or about February 20, 2002, the Bureau of Automotive Repair ("Bureau") issued
8 Automotive Repair Dealer Registration Number ARD 219654 to Saleh Isam Abu Hijleh and
9 Ameen Musa Rizk, partners, dba D and D Auto Repair & Service. The Automotive Repair Dealer
10 Registration was in full force and effect at all times relevant to the charges brought herein and will
11 expire on January 31, 2015.

12 3. On or about February 26, 2002, the Bureau issued Smog Check Station License
13 Number RC 219654 to Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto
14 Repair & Service. The Smog Check Station License was in full force and effect at all times
15 relevant to the charges brought herein and will expire on January 31, 2015.

16 4. On or about May 20, 2011, the Bureau issued Brake Station License Number BS
17 219654 to Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair &
18 Service. The Lamp Station License was in full force and effect at all times relevant to the charges
19 brought herein and will expire on January 31, 2015.

20 5. On or about May 20, 2011, the Bureau issued Lamp Station License Number LS
21 219654 to Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair &
22 Service. The Lamp Station License was in full force and effect at all times relevant to the charges
23 brought herein and will expire on January 31, 2015.

24 **INSPECTOR AND ADJUSTER LICENSES**

25 6. In 1997, the Bureau issued Advanced Emission Specialist Technician License Number
26 EA 31680 to Saleh Isam Abuhijleh. Pursuant to California Code of Regulations, title 16, section
27 3340.28, subdivision (e), said license was renewed in 2013 as Smog Inspector License No. EO
28 31680 and Smog Check Repair Technician License No. EI 31680. Respondent's

1 licenses were in full force and effect at all times relevant to the charges brought herein and will
2 expire on April 30, 2015, unless renewed.¹

3 7. On or about April 18, 2011, the Bureau of Automotive Repair issued Brake Adjuster
4 License Number BA 31680 to Saleh Isam Abuhijleh. The Brake Adjuster License was in full force
5 and effect at all times relevant to the charges brought herein and will expire on April 30, 2015,
6 unless renewed.

7 8. On or about February 18, 2011, the Bureau of Automotive Repair issued Lamp
8 Adjuster License Number LA 31680 to Saleh Isam Abuhijleh (“Respondent Abuhijleh”). The
9 Brake Adjuster License was in full force and effect at all times relevant to the charges brought
10 herein and will expire on April 30, 2018, unless renewed.

11 JURISDICTION

12 9. This Accusation is brought before the Director of Consumer Affairs (“Director”) for
13 the Bureau of Automotive Repair, under the authority of the following laws.

14 10. Section 9884.13 of the Business and Professions Code (“BPC”) provides, in pertinent
15 part, that “[t]he expiration of a valid registration shall not deprive the director or chief of
16 jurisdiction to proceed with . . . [a] disciplinary proceeding against an automotive repair dealer or
17 to render a decision invalidating a registration temporarily or permanently.”

18 11. Section 9889.9 of the BPC states that “[w]hen any license has been revoked or
19 suspended following a hearing under the provisions of this article, any additional license issued
20 under Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or
21 suspended by the director.

22 12. Section 44002 of the Health and Safety Code (“HSC”) provides, in pertinent part, that
23 the Director has all the powers and authority granted under the Automotive Repair Act for
24 enforcing the Motor Vehicle Inspection Program.

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

1 13. Section 44072.8 of the HSC states:

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

5 **STATUTORY PROVISIONS**

6 14. Section 9884.7 of the BPC states, in pertinent part:

7 “(a) The director, where the automotive repair dealer cannot show there was a bona fide
8 error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an
9 automotive repair dealer for any of the following acts or omissions related to the conduct of the
10 business of the automotive repair dealer, which are done by the automotive repair dealer or any
11 automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

15 (4) Any other conduct which constitutes fraud.”

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17 (6) Failure in any material respect to comply with the provisions of this chapter or
18 regulations adopted pursuant to it.

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

21 (a) Violates any section of the Business and Professions Code that relates to his or her
22 licensed activities.

23 15. Section 9889.3 of the BPC states, in pertinent part:

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

26 “(a) Violates any section of the Business and Professions Code that relates to his or her
27 licensed activities.

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

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16. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

17. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance shall be issued if a vehicle meets the requirements of HSC section 40012.

18. Section 44032 of the HSC provides, in pertinent part, that “[q]ualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.”

19. Section 44059 of the HSC provides:

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

20. Section 44072.2 of the HSC 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.”

REGULATORY PROVISIONS

21. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c), states:

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1 "The bureau may suspend or revoke the license of or pursue other legal action against a
2 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
3 certificate of noncompliance."

4 22. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
5 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section
6 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section
7 3340.42 of this article."

8 23. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
9 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any
10 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
11 this article and has all the required emission control equipment and devices installed and
12 functioning correctly."

13 24. CCR, title 16, section 3340.41, subdivision (c), provides: "No person shall enter into
14 the emissions inspection system any vehicle identification information or emission control system
15 identification data for any vehicle other than the one being tested. Nor shall any person knowingly
16 enter into the emissions inspection system any false information about the vehicle being tested."

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

19 **UNDERCOVER OPERATION – NOVEMBER 26, 2013**

20 26. In November 2013, a Bureau program representative at the Bureau's Forensic
21 Documentation Laboratory in Anaheim inspected and documented the emissions systems on a
22 1995 Nissan ("undercover vehicle"). After finding that the undercover vehicle's emissions systems
23 were in compliance with California's Motor Vehicle Inspection Program, the program
24 representative deliberately retarded the vehicle's ignition timing system outside of manufacturer
25 specification to a setting of two (2) degrees before top dead center. Due to the program
26 representative's manipulation of the undercover vehicle's ignition timing system, the vehicle was
27 no longer in compliance with California's Motor Vehicle Inspection Program.

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1 Specifically, the undercover vehicle was unable to pass the functional portion of the smog
2 inspection program as required by state law.

3 27. On or about November 26, 2013, an undercover Bureau operator drove the
4 undercover vehicle to the D and D Auto Repair & Service station and requested a smog
5 inspection. At that time, the undercover vehicle was still not in compliance with the requirements
6 of the Motor Vehicle Inspection Program due to the setting of its ignition timing system.
7 Nonetheless, Respondent Abuhijleh performed a smog inspection on the undercover vehicle and
8 issued electronic Certificate of Compliance No. [REDACTED] thereby falsely certifying that the
9 vehicle had passed the requirements of the Motor Vehicle Inspection Program.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Misleading Statements)**

12 28. Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair &
13 Service, ("Respondent Partners"), have subjected their ARD to discipline under BPC section
14 9884.7, subdivision (a)(1), in that Respondents made statements which they knew or which by
15 exercise of reasonable care should have known were untrue or misleading when Respondent
16 Abuhijleh issued an electronic certificate of compliance for an undercover Bureau vehicle.
17 Complainant refers to, and by this reference incorporates, the allegations set forth above in
18 paragraphs 26 and 27, inclusive, as though set forth fully herein.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 29. Respondent Partners have subjected their ARD to discipline under BPC section
22 9884.7, subdivision (a)(4), in that they committed an act constituting fraud by issuing an electronic
23 certificate of compliance for an undercover Bureau vehicle without performing a bona fide
24 inspection of the emission control devices and systems on that vehicle, thereby depriving the
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection
26 Program. Complainant refers to, and by this reference incorporates, the allegations set forth above
27 in paragraphs 26 and 27, inclusive, as though set forth fully herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 30. Respondent Partners have subjected their ARD to discipline under BPC section
4 9884.7, subdivision (a)(6), in that they failed in a “material respect to comply with the provisions
5 of this chapter or regulations adopted pursuant to it” by issuing an electronic certificate of
6 compliance for an undercover Bureau vehicle without performing a bona fide inspection of the
7 emission control devices and systems on that vehicle, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
9 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 26 and
10 27, inclusive, as though set forth fully herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

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

13 31. Respondent Partners have subjected their station license to discipline under HSC
14 section 44072.2, subdivision (a), in that Respondents violated the following sections of the HSC
15 with respect to the inspection of an undercover Bureau vehicle:

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

18 b. **Section 44015, subdivision (b):** Respondents issued an electronic certificate of
19 compliance without properly testing and inspecting the vehicle to determine if it was in compliance
20 with section 44012 of the HSC.

21 c. **Section 44059:** Respondent willfully made false entries for the electronic certificate of
22 compliance by certifying that the vehicle had been inspected as required when, in fact, it had not.

23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraphs 26 and 27, inclusive, as though set forth fully herein.

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28 **FIFTH CAUSE FOR DISCIPLINE**

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

2 32. Respondent Partners have subjected their station license to discipline under HSC
3 section 44072.2, subdivision (c), in that Respondents violated the following sections of title 16 of
4 the CCR with respect to the inspection of an undercover Bureau vehicle:

5 a. **Section 3340.24, subdivision (c):** Respondents falsely or fraudulently issued an
6 electronic certificate of compliance without performing a bona fide inspection of the emission
7 control devices and systems on the vehicle as required by HSC section 44012.

8 b. **Section 3340.35, subdivision (c):** Respondents issued an electronic certificate of
9 compliance even though the vehicle had not been inspected in accordance with section 3340.42 of
10 the HSC.

11 c. **Section 3340.42:** Respondents failed to conduct the required smog test and
12 inspection of the vehicle in accordance with the Bureau's specifications.

13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraphs 26 and 27, inclusive, as though set forth fully herein.

15 **SIXTH CAUSE FOR DISCIPLINE**

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

17 33. Respondent Partners have subjected their station license to discipline under HSC
18 section 44072.2, subdivision (d), in that Respondents committed acts involving dishonesty, fraud
19 or deceit whereby another was injured by issuing an electronic certificate of compliance for an
20 undercover Bureau vehicle without performing a bona fide inspection of the emission control
21 devices and systems on the vehicle, thereby depriving the People of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
23 reference incorporates, the allegations set forth above in paragraphs 26 and 27, inclusive, as
24 though set forth fully herein.

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28 **SEVENTH CAUSE FOR DISCIPLINE**

1 (Violations of the Motor Vehicle Inspection Program)

2 34. Respondent Abuhijleh has subjected his smog check inspector and smog check repair
3 technician licenses to discipline under HSC section 44072.2, subdivision (a), in that he violated the
4 following sections of the HSC with respect to his inspection of an undercover Bureau vehicle:

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

7 b. **Section 44032:** Respondent failed to perform tests of the emission control devices
8 and systems on the vehicle in accordance with section 44012 of the HSC.

9 c. **Section 44059:** Respondent willfully made false entries for the electronic certificate of
10 compliance by certifying that the vehicle had been inspected as required by state law when, in fact,
11 it had not.

12 Complainant refers to, and by this reference incorporates, the allegations set forth above in
13 paragraphs 26 and 27, inclusive, as though set forth fully herein.

14 **EIGHTH CAUSE FOR DISCIPLINE**

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

16 35. Respondent Abuhijleh has subjected his smog check inspector and smog check repair
17 technician licenses to discipline under HSC section 44072.2, subdivision (c), in he violated the
18 following sections of the CCR, title 16, with respect to his inspection of an undercover Bureau
19 vehicle:

20 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
21 electronic certificate of compliance without performing a bona fide inspection of the emission
22 control devices and systems on the vehicle as required by HSC section 44012.

23 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the vehicle in
24 accordance with HSC section 44012.

25 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
26 for the electronic certificate of compliance with respect to the functional portion of the smog
27 inspection.

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1 d. **Section 3340.42:** Respondent failed to conduct the required smog test and inspection
2 on the vehicle in accordance with the Bureau's specifications.

3 Complainant refers to, and by this reference incorporates, the allegations set forth above in
4 paragraphs 26 and 27, inclusive, as though set forth fully herein.

5 **NINTH CAUSE FOR DISCIPLINE**

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

7 36. Respondent Abuhijleh has subjected his smog check inspector and smog check
8 repair technician licenses to discipline under HSC section 44072.2, subdivision (d), in that he
9 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing an
10 electronic certificate of compliance for an undercover Bureau vehicle without performing a bona
11 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the
12 People of the State of California of the protection afforded by the Motor Vehicle Inspection
13 Program. Complainant refers to, and by this reference incorporates, the allegations set forth above
14 in paragraphs 26 and 27, inclusive, as though set forth fully herein.

15 **PRIOR CITATIONS**

16 37. To determine the degree of penalty, if any, to be imposed upon Respondent Partners
17 and Respondent Abuhijleh, Complainant alleges as follows:

18 a. On April 21, 1999, the Bureau issued Citation No. M99-0414 against Respondent
19 Abuhijleh's technician license for violations of the Motor Vehicle Inspection Program.

20 Respondent was ordered to complete an 8-hour training course. That Citation is now final.

21 b. On August 17, 2010, the Bureau issued Citation Number C2011-0186 against
22 Respondent Partners' registration and station license and Citation No. M2011-0187 against
23 Respondent Abuhijleh's technician license for violations of the Motor Vehicle Inspection Program.

24 Respondent Partners were fined \$1000.00 and Respondent Abuhijleh was ordered to complete an
25 8-hour training course. Those Citations are now final.

26 c. On April 26, 2012, the Bureau issued Citation Number C2012-1441 against
27 Respondent Partners' registration and station license and Citation No. M2012-1442 against
28 Respondent Abuhijleh's technician license for violations of the Motor Vehicle Inspection Program.

1 Respondent Partners were fined \$1500.00 and Respondent Abuhijleh was ordered to complete an
2 16-hour training course. Those Citations are now final.

3 d. On June 24, 2013, the Bureau issued Citation Number C2013-0734 against
4 Respondent Partners' registration and station license and Citation No. M2013-0735 against
5 Respondent Abuhijleh's inspector license for violations of the Motor Vehicle Inspection Program.
6 Respondent Partners were fined \$3000.00. Respondent Abuhijleh was fined \$1000.00 and ordered
7 to complete an 68-hour training course. Those Citations are now final.

8 **PRAYER**

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

- 11 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
12 219654, issued to Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto
13 Repair & Service;
- 14 2. Revoking or suspending Smog Check Station License Number RC 219654, issued to
15 Saleh Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair & Service;
- 16 3. Revoking or suspending Brake Station License Number BS 219654, issued to Saleh
17 Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair & Service;
- 18 4. Revoking or suspending Lamp Station License Number LS 219654, issued to Saleh
19 Isam Abu Hijleh and Ameen Musa Rizk, partners, dba D and D Auto Repair & Service;
- 20 5. Revoking or suspending Smog Check Inspector License Number EO 31680, issued to
21 Saleh Isam Abuhijleh (formerly Advanced Emission Specialist Technician License Number EA
22 31680);
- 23 6. Revoking or suspending Smog Check Repair Technician License Number EI 31680,
24 issued to Saleh Isam Abuhijleh (formerly Advanced Emission Specialist Technician License
25 Number EA 31680);
- 26 7. Revoking or suspending Brake Adjuster License Number BA 31680, issued to Saleh
27 Isam Abuhijleh;

1 8. Revoking or suspending Lamp Adjuster License Number LA 31680, issued to Saleh
2 Isam Abuhijleh;

3 9. Ordering Saleh Isam Abuhijleh (aka Saleh Isam Abu Hijleh) and Ameen Musa Rizk to
4 pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of
5 this case, pursuant to Business and Professions Code section 125.3;

6 10. Taking such other and further action as deemed necessary and proper.
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8 DATED: October 29, 2014 

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

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