

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

In the Matter of the Accusation Against:

QUICK SMOG; SIMBAL SINGH,
Automotive Repair Dealer Registration
No. ARD 263348
Smog Check Test Only Station License
No. TC 263348

TEJPREET SINGH
Advanced Emission Specialist Technician
License No. EO 633722/EI 633722
(formerly EA 633722)

Agency Case No. 79/14-83

OAH No. 2015060463


Respondents.

DECISION

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

This Decision shall become effective January 24, 2017.

DATED: 12/5/2016



RYAN MARCROFT

Assistant Chief Counsel
Division of Legal Affairs
Department of Consumer Affairs

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PROPOSED DECISION

Thomas Y. Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 24, 2016, in Los Angeles, California.

Antonio Lopez, Jr., Deputy Attorney General, represented complainant, Patrick Dorais.

Respondent Tejpreet Singh was self-represented.

Respondents Quick Smog and Simbal Singh did not participate in the hearing. Counsel for complainant advised at the beginning of the hearing that the respondents other than Tejpreet Singh had settled the matter.

The accusation was amended by interlineation. On page 10, at line 1, instead of "SEVENTH CAUSE FOR DISCIPLINE," it now states "EIGHTH CAUSE FOR DISCIPLINE," and at line 11, instead of "EIGHTH CAUSE FOR DISCIPLINE" it now states "NINTH CAUSE FOR DISCIPLINE."

With respect to respondent Tejpreet Singh (respondent), oral and documentary evidence was received, and on August 24, 2016, the record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant brought the accusation in his official capacity as Chief of the Bureau of Automotive Repair (BAR), Department of Consumer Affairs, State of California. Complainant alleges that by improperly certifying that several vehicles were in compliance with anti-pollution laws and regulations, respondent subjected his license to discipline. Respondent maintains that it was only by misappropriating his BAR-issued access code that others were able to make it appear that he had improperly certified compliance. Respondent filed a timely request for hearing.

2. Respondent holds a valid license from BAR as a Smog Check Repair Technician, number 633722. (Exhibit 2.) The license was valid in September 2012, at the time of the events at issue. The record did not indicate the dates for issuance and expiration of respondent's license.

3. BAR issues an access code unique to each smog technician it licenses. It allows a technician access to computer equipment necessary to perform emissions tests on vehicles. Computer test results record the access code a technician inputs. BAR prohibits a licensee from divulging the licensee's access code to others, so that generally it may be concluded from an access code's appearance in smog test results that the person to whom BAR issued the access code was the technician who performed the test.

4. BAR first issued respondent his license in 2010 or 2011. At about the time he became licensed, respondent met a person named Rajwinder Singh. Rajwinder Singh, who has no family relationship with respondent, told respondent he owned Quick Smog, a smog check test-only station in Bakersfield, California, and agreed to employ respondent. Rajwinder Singh then trained respondent as a smog technician at Quick Smog, where respondent worked until shortly after he learned the results of BAR's video surveillance in September 2012, as described in Findings 10 through 12.

5. Respondent and Rajwinder Singh did not smog-test vehicles together. Smog tests that respondent performed were recorded on computer equipment at Quick Smog. For such tests respondent input the access code issued to him by BAR. Respondent did not authorize the use of his access code by others.

6. While respondent worked there, Quick Smog employed several technicians in addition to respondent and Rajwinder Singh.

7. Respondent has never met Simbal Singh and knows nothing about him. BAR's records indicate that, at all times relevant here, Simbal Singh was doing business as Quick Smog. BAR licensed Simbal Singh as an automotive repair dealer, no. ARD 263348, while the entity held at all relevant times Smog Check Test Only Station License No. TC 263348. The record did not indicate the issuance and expiration dates of the licenses. (Exhibit 2.)

8. In 2006, BAR issued Rajwinder Singh an Advanced Emission Specialist Technician license, no. EA 153634. The license expired November 30, 2010. BAR revoked the license on January 18, 2011. (Exhibit 19.)

9. Between December 10, 2011 and January 16, 2012, respondent traveled to India, as indicated by his passport, Exhibit 18. When he returned to work shortly after his return, a Quick Smog customer showed him paperwork for a smog test that respondent had not performed, though the paperwork indicated he had. Respondent had not divulged his access code to others and did not know how it happened that he was identified on the customer's paperwork as the testing technician. He promptly reported the problem to BAR, which issued him a different access code. Respondent kept the new access code to himself, as he had the previous one.

10. In September 2012, BAR set up video surveillance of Quick Smog's premises after receiving a tip that an unlicensed employee of Quick Smog was performing smog inspections. The video surveillance was shot over a four-day period, from September 5 through September 8, 2012. According to BAR's April 29, 2013 Formal Investigation Report (Investigation Report), the surveillance video shows that during the surveillance period, Rajwinder Singh performed smog tests on seven vehicles while respondent smog-tested one. (Exhibit 4.)

11. Exhibit 5 is a table showing BAR-97 test results for 56 vehicles smog-tested at Quick Smog during the surveillance period. The test results are among records electronically transmitted to BAR automatically from smog test stations like Quick Smog. One type of record so transmitted shows the results of the BAR-97.

12. The BAR-97 test results erroneously identify respondent as the testing technician for eight vehicles during the surveillance period, though he tested only one of the eight. The error was caused by Rajwinder Singh. Rajwinder Singh used respondent's access code to access BAR-97 testing equipment. Other employees at Quick Smog tested 48 vehicles during the surveillance period and obtained the 48 other BAR-97 test results recorded in Exhibit 5. Rajwinder Singh was the only employee of Quick Smog to misappropriate respondent's access code.

13. The surveillance video was not offered in evidence. Denny Moyer, a Program Representative I at BAR's Field Office in Bakersfield, California, reviewed the surveillance video and prepared the Investigation Report. On the video he saw smoke from the tailpipe of the vehicle respondent tested. Mr. Moyer was looking for excessive smoke from the tailpipe. He considered the smoke seen on video excessive and he described it as blue smoke. Blue smoke is a visible sign of pollutants. He testified that respondent should have failed the vehicle based on the visual test.

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14. According to the Investigation Report, the vehicle respondent tested on September 8, 2012 was a 1990 Dodge Ram 50 pickup truck, for which he issued Certificate of Compliance no. XL256799C. In accord with Mr. Moyer's testimony, the Investigation Report states that "the vehicle should have failed the smog inspection due to visible smoke. Tejpreet [Singh] failed to properly perform the smog inspection." (Exhibit 4, p. AG049.)

15. Respondent admitted he tested the Dodge Ram 50 pickup truck, issued it a certificate of compliance, and observed some vapor or smoke issuing from the vehicle's tailpipe. But he stated the quantity was small, it dissipated quickly as the engine was running, and it was not blue. Respondent deemed the tailpipe emission not enough to cause the vehicle to fail the test's visual part. The BAR-97 test result (Exhibit 5) and the BAR-97 Test Detail (Exhibit 13) regarding the vehicle, show that it passed all parts of the smog test.

16. After BAR told him of the video surveillance, respondent concluded that Rajwinder Singh had misappropriated his access code at least twice: first at some point before January 2012 and a second time, at some point before the surveillance period. After the surveillance, he again promptly reported misappropriation to BAR, obtained a new access code, and quit his job at Quick Smog. Respondent is currently employed as a smog technician at C & R Smog & Repair in Bakersfield, California.

17. BAR incurred prosecution costs of \$9,112.50. At hearing, however, it attributed \$7,500 of these costs to the settling parties, and sought to recover from respondent the difference, a total of \$1,612.50.

LEGAL CONCLUSIONS

1. BAR has the burden of proof. "[P]rocedural due process of law requires a regulatory board or agency to prove the allegations of an accusation filed against a licensee . . ." (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9 [burden on agency in proceeding against an architect].)

2. The standard BAR must meet is proof by a preponderance of the evidence. As the court stated in *Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917:

Although an applicant for an advanced emission specialist technician license must complete certain course work (Cal. Code Regs., tit. 16, § 3340.28, subd. (b)(3)) and pass an examination (Cal. Code Regs., tit. 16, § 3340.29), such requirements are not similar to the "extensive educational, training and testing requirements" necessary to obtain a professional license (*San Benito Foods v. Veneman, supra*, 50 Cal.App.4th [1889] at p. 1894). Accordingly, an advanced emission specialist technician license is a nonprofessional or occupational license and proceedings to revoke such a license are governed by the preponderance of evidence standard of proof.

3. BAR's licensing, regulatory, and disciplinary functions are for the protection of the public. (Bus. & Prof. Code, § 9880.3.)

4. BAR protects the public by controlling excess vehicle pollution. BAR is one of several agencies concerned with air pollution and its effect on air quality. Laws enacted to protect air quality are enforced by an agency network to conduct mandatory inspection of vehicles, particularly anti-smog equipment. (Health & Saf. Code, § 44000.) Among other tasks, BAR implements standards adopted in conjunction with other state agencies to assure the quality of work performed by qualified smog check technicians at smog check stations. (Health & Saf. Code, §§ 39016.5, 44030 et seq.)

5. Under Business and Professions Code section 9882, subdivision (a), BAR has a chief "who is responsible to the director of the Department of Consumer Affairs" (department) for "enforcing and administering" the Automotive Repair Act, found in Business and Professions Code sections 9880 through 9889.68. BAR and the department are empowered to "adopt and enforce . . . rules and regulations . . . reasonably necessary to carry out the purposes" of the Automotive Repair Act. (*Ibid.*, Bus. & Prof. Code, § 9882, subd. (a); see also Bus. & Prof. Code, § 125.9, subd. (a).)

6. Health and Safety Code section 44012, subdivision (f), provides in pertinent part:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require . . . appropriate test procedures as determined by the department in consultation with the state board [i.e., the Air Resources Board]. . . . The department shall ensure, as appropriate to the test method, the following:

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

Section 44001, referenced in section 44012, subdivision (f) of the Health and Safety Code addresses the general responsibility of inspection programs to ensure reduced emissions from motor vehicles, including "results-based evaluations" (Health & Saf. Code, § 44001, subd. (b)(5).)

7. Health and Safety Code section 44032 provides in pertinent part:

Qualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

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8. Health and Safety Code section 44072.2 provides 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 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.

9. California Code of Regulations, title 16, section 3340.30, subdivision (a), provides:

A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.

10. California Code of Regulations, title 16, section 3340.42 sets out smog check test standards and methods of different types. The regulation references tailpipe emissions in general, but there are no provisions specifically relating to the quantity or color of tailpipe emissions, such as vapor or smoke. The regulation states in part that the “[s]mog check inspection methods are prescribed in the Smog Check Manual.” The Smog Check Manual was not in evidence.

11. Cause does not exist to discipline respondent’s license under Health and Safety Code section 44072.2, subdivision (a) or statutes it references, including Health and Safety Code sections 44012 and 44032. The evidence did not establish that, relating to licensed activities, respondent violated any statutory provisions or regulations adopted pursuant to statute.

A. Respondent’s access code was used without his authorization. There was no evidence demonstrating that respondent was at fault for the code’s misappropriation or that he was complicit in wrongdoing with respect to several vehicles. The circumstances of respondent’s obtaining a new access code in January 2012 indicate that he was unaware how his access code might have been misappropriated then and who was responsible. That respondent quit his job at Quick Smog, and the circumstances of respondent’s obtaining a

new access code a second time, indicate yet more strongly that he was not complicit in wrongdoing.

B. It was not established that respondent improperly issued a Certificate of Compliance to the Dodge Ram 50 pickup truck on September 8, 2012.

11. Cause does not exist to discipline respondent's license under Health and Safety Code section 44072.2, subdivision (c), for the same reasons stated in Conclusion 10. The evidence did not demonstrate that respondent violated any pertinent regulations. BAR did not produce the surveillance video, though this would have been stronger, more trustworthy evidence than the testimony offered regarding what the video showed. (Evid. Code, § 412.)

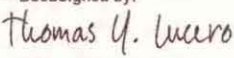
12. Cause does not exist to discipline respondent's license under Health and Safety Code section 44072.2, subdivision (d), for the same reasons stated in Conclusion 10. The evidence did not demonstrate that respondent committed any act involving dishonesty, fraud, or deceit whereby another was injured.

13. Because wrongdoing by respondent was not demonstrated by preponderance of the evidence, he is not liable for costs.

ORDER

The accusation against respondent Tejpreet Singh is dismissed.

Dated: September 21, 2016

DocuSigned by:

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THOMAS Y. LUCERO
Administrative Law Judge
Office of Administrative Hearings

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

10 In the Matter of the Accusation Against:

Case No.

79/14-83

11 **QUICK SMOG; SIMBAL SINGH;**
12 **2425 S. Chester Ave.**
13 **Bakersfield, CA 93304**

ACCUSATION

smog check

14 **Automotive Repair Dealer Registration No.**
ARD 263348
15 **Smog Check Test Only Station License No.**
TC 263348

16 **TEJPREET SINGH**
17 **9607 Kabara Ct.**
Bakersfield, CA 93311

18 **Advanced Emission Specialist Technician**
19 **License No. EO 633722/EI 633722**
(formerly EA 633722)

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 **Quick Smog**

27 2. On or about September 22, 2010, the Director of Consumer Affairs ("Director")
28 issued Automotive Repair Dealer Registration Number ARD 263348 ("registration") to Simbal

1 Singh ("Respondent Simbal"), doing business as Quick Smog. The registration was in full
2 force and effect at all times relevant to the charges brought herein and will expire on September
3 30, 2014, unless renewed.

4 3. On or about December 10, 2010, the Director issued Smog Check Test Only Station
5 License Number TC 263348 ("station license") to Respondent Simbal, doing business as Quick
6 Smog. The station license was in full force and effect at all times relevant to the charges brought
7 herein and will expire on September 30, 2014, unless renewed.

8 **Tejpreet Singh**

9 4. On or about October 17, 2011, the Director issued Advanced Emission Specialist
10 Technician License Number EA 633722 ("technician license") to Tejpreet Singh ("Respondent
11 Tejpreet"). Respondent Tejpreet's technician license has been redesignated as EO 633722 and/or
12 EI 633722.¹

13 **Rajwinder Singh**

14 5. On a date uncertain in 2006, the Director issued Advanced Emission Specialist
15 Technician License Number EA 153634 ("technician license") to Rajwinder Singh ("Respondent
16 Rajwinder"). Respondent Rajwinder's technician license expired on November 30, 2010, and was
17 revoked on January 18, 2011.

18 **JURISDICTION**

19 6. Business and Professions Code ("Code") section 9884.7 provides that the Director
20 may revoke an automotive repair dealer registration.

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

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

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

1 9. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
2 [u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
3 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
4 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

5 STATUTORY PROVISIONS

6 10. Section 9884.7 of the Business and Professions Code ("Code") states, in
7 pertinent part:

8 (a) The director, where the automotive repair dealer cannot show there
9 was a bona fide error, may refuse to validate, or may invalidate temporarily or
10 permanently, 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.

11 (1) Making or authorizing in any manner or by any means whatever any
12 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.

13 (4) Any other conduct which constitutes fraud.

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

16 (b) Except as provided for in subdivision (c), if an automotive repair
17 dealer operates more than one place of business in this state, the director pursuant to
18 subdivision (a) shall only invalidate temporarily or permanently the registration of the
specific place of business which has violated any of the provisions of this chapter.
This violation, or action by the director, shall not affect in any manner the right of the
automotive repair dealer to operate his or her other places of business.

19 (c) Notwithstanding subdivision (b), the director may invalidate
20 temporarily or permanently, the registration for all places of business operated in this
21 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.

22 11. Code section 118, subdivision (b) states:

23 The suspension, expiration, or forfeiture by operation of law of a license issued
24 by a board in the department, or its suspension, forfeiture, or cancellation by order of
the board or by order of a court of law, or its surrender without the written consent of
25 the board, shall not, during any period in which it may be renewed, restored, reissued,
or reinstated, deprive the board of its authority to institute or continue a disciplinary
26 proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
27 licensee on any such ground.
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1 12. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
2 "commission," "committee," "department," "division," "examining committee," "program,"
3 and "agency." "License" includes certificate, registration or other means to engage in a
business or profession regulated by the Code.

4 13. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

12 14. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
13 expiration or suspension of a license by operation of law, or by order or decision of the
14 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.

15 15. Section 44072.8 of the Health and Safety Code states:

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

18 16. Section 44014 of the Health & Safety Code states:

19 (a) Except as otherwise provided in this chapter, the testing and repair
20 portion of the program shall be conducted by smog check stations licensed by the
department, and by smog check technicians who have qualified pursuant to this chapter.

21 17. Section 44032 of the Health and Safety Code states:

22 No person shall perform, for compensation, tests or repairs of emission control
23 devices or systems of motor vehicles required by this chapter unless the person
performing the test or repair is a qualified smog check technician and the test or
24 repair is performed at a licensed smog check station.

25 Qualified technicians shall perform tests of emission control devices and systems in
accordance with Section 44012.

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Table 1

Inspection Number	Test Date & Time	Vehicle Certified (License Number)	Certificate Issued	Details
1	9/5/2012 1503 to 1511	1997 Honda Civic (4MFY014)	XL256772C	Respondent Rajwinder operates vehicle on dynamometer, performs smog inspection. Respondent Tejpreet is present however does not do any part of the smog test.
2	9/5/2012 1714 to 1720	2004 Chevrolet Pickup (8S31112)	XL256775C	Respondent Rajwinder operates vehicle on dynamometer, performs smog inspection. Respondent Tejpreet is present however does not do any part of the smog test.
3	9/5/20012 1726 to 1732	1999 Toyota Pickup (5Z74684)	XL256776C	Respondent Rajwinder operates vehicle on dynamometer in the presence of Tejpreet.
4	9/5/2012 1808 to 1816	2000 Nissan Sentra (6EFC103)	XL256778C	Respondent Rajwinder operates vehicle on dynamometer, performs smog inspection. Respondent Tejpreet is present however does not do any part of the smog test.
5	9/6/2012 1233 to 1253	1990 Lexus 400 (2SRY012)	No certificate issued, vehicle failed.	Respondent Rajwinder operates vehicle on dynamometer, performs LPFET portion of inspection in the presence of Tejpreet.
6	9/6/2012 1453 to 1503	1997 Chevrolet Lumina (No Plate)	XL256783C	Respondent Rajwinder operates vehicle on dynamometer, performs smog inspection. Respondent Tejpreet is present however does not do any part of the smog test.
7	9/7/2012 1337 to 1343	2002 Toyota Camry (4UCL615)	XL256791C	Respondent Rajwinder operates vehicle on dynamometer, performs smog inspection. Respondent Tejpreet is present however does not do any part of the smog test.
8	9/8/2012 1103 to 1117	1990 Dodge Ram 50 (8J43546)	XL256799C	Respondent TejPreet performed an improper inspection by certifying the vehicle even though smoke can clearly be seen at the tailpipe.

21. On or about December 12, 2012, in an interview with the Bureau, Respondent Tejpreet acknowledged that Respondent Rajwinder would perform smog inspections when it was busy or when Respondent Tejpreet was at lunch.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

22. Respondent Simbal has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about the dates set forth in Table 1 above, regarding the vehicles set forth in Table 1 above, Respondent Simbal made statements which he knew, or which by exercise of reasonable care should have known, were untrue or misleading as follows:

a. Respondent Simbal certified that the smog inspections on vehicles 1 through 8, identified in table 1 above, were performed by Respondent TejPreet. In fact, Respondent Rajwinder conducted the inspections on the vehicles when he was not a licensed smog check technician.

b. Respondent Simbal certified that vehicle 9, identified in table 1 above, had passed the inspection and was in compliance with applicable laws and regulations. In fact, Respondent Tejpreet failed to test or inspect the vehicle as required by Health & Safety Code section 44012 in that he failed to properly perform the visual test and fail the 1990 Dodge Ram 50 due to smoke from the tailpipe of the vehicle.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

23. Respondent Simbal has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about the dates set forth in Table 1 above, Respondent Simbal committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1 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.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 26. Respondent Simbal has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that on or about the dates set forth in Table 1
5 above, regarding the vehicles set forth in Table 1 above, Respondent Simbal committed acts
6 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
7 certificates of compliance for the vehicles without performing bona fide inspections of the
8 emission control devices and systems on the vehicles, thereby depriving the People of the State of
9 California of the protection afforded by the Motor Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Aiding or Abetting Unlicensed Persons)**

12 27. Respondent Simbal has subjected his station license to discipline under Health and
13 Safety Code section 44072.2, subdivision (f), in that on or about the dates set forth in Table 1
14 above, regarding vehicles 1 through 8 in Table 1 above, Respondent Simbal aided and abetted
15 Respondent Rajwinder, an unlicensed smog technician, to evade the provisions of the Motor
16 Vehicle Inspection Program, as set forth above.

17 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 28. Respondent Tejpreet has subjected his inspector and repair licenses to discipline
20 under Health and Safety Code section 44072.2, subdivision (a), in that on or about the dates set
21 forth in Table 1 above, regarding the vehicles set forth in Table 1, he violated sections of the
22 Code as follows:

23 a. **Section 44012:** Respondent Tejpreet failed to perform emission control tests
24 on the vehicles in accordance with procedures prescribed by the department.

25 b. **Section 44012, subdivision (f):** Respondent Tejpreet failed to perform
26 visual/functional emission control tests on the vehicles in accordance with procedures prescribed
27 by the department.

28 c. **Section 44032:** Respondent Tejpreet failed to perform tests of the emission
control devices and systems on the vehicles in accordance with section 44012 of that Code.

1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 29. Respondent Tejpreet has subjected his inspector and repair licenses to discipline
4 under Health and Safety Code section 44072.2, subdivision (c), in that on or about the dates set
5 forth in Table 1 above, regarding the vehicles set forth in Table 1 above, he violated sections of
6 the California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a):** Respondent Tejpreet failed to inspect and
8 test the vehicles in accordance with Health and Safety Code section 44012.

9 b. **Section 3340.42:** Respondent Tejpreet failed to conduct the required smog tests
10 and inspections on the vehicles in accordance with the Bureau's specifications.

11 **EIGHTH CAUSE FOR DISCIPLINE**

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

13 30. Respondent Tejpreet has subjected his inspector and repair licenses to discipline
14 under Health and Safety Code section 44072.2, subdivision (d), in that on or about the dates set
15 forth in Table 1 above, he committed acts involving dishonesty, fraud or deceit whereby another
16 was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 1
17 above, without performing bona fide inspections of the emission control devices and systems on
18 the vehicles, thereby depriving the People of the State of California of the protection afforded by
19 the Motor Vehicle Inspection Program.

20 **OTHER MATTERS**

21 31. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
22 or may invalidate temporarily or permanently, the registrations for all places of business operated
23 in this state by Simbal Singh, upon a finding that he has, or is, engaged in a course of repeated
24 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

25 32. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
26 License Number TC 263348, issued to Simbal Singh, doing business as Quick Smog, is revoked
27 or suspended, any additional license issued under this chapter in the name of said licensee may be
28 likewise revoked or suspended by the director.

1 33. Pursuant to Health & Safety Code section 44072.8, if Respondent Tejpreet's
2 inspection and repair licenses, currently designated as EO 633722 and EI 633722, formerly EA
3 633722, is/are revoked or suspended, any additional license issued under this chapter in the name
4 of said licensee may be likewise revoked or suspended by the Director.

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1 PRAYER

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

4 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration
5 Number ARD 263348, issued to Simbal Singh, doing business Quick Smog;

6 2. Revoking, suspending or placing on probation any other automotive repair dealer
7 registration issued in the name Simbal Singh;

8 3. Revoking or suspending Smog Check Test Only Station License Number TC 263348,
9 issued to Simbal Singh, doing business as Quick Smog;

10 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
11 and Safety Code in the name of Simbal Singh;

12 5. Revoking or suspending Tejpreet Singh's smog technician license(s), currently
13 designated as EO 633722 and EI 633722, formerly EA 633722;

14 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
15 and Safety Code in the name of Tejpreet Singh;

16 7. Ordering Simbal Singh and Tejpreet Singh to pay the Bureau of Automotive Repair
17 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3; and,

19 8. Taking such other and further action as deemed necessary and proper.
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22 DATED: January 15, 2014

Patrick Dorais

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