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

11  
12 In the Matter of the Accusation Against:  
13 **U S A SMOG AUTOMOTIVE**  
**ESSA RASHEED JOULANI, Owner**  
14 710 North Kirby Street  
Hemet, CA 92545  
15  
16 Automotive Repair Dealer Registration No.  
ARD 257842  
Smog Check Station License No. RC 257842  
17  
18 **TAREK ESSA JOULANI**  
1420 Genoa Lane  
19 San Jacinto, CA 92583  
20 Smog Check Inspector License No. EO 636971  
21 and  
22 **IYAD A. ALSAYEH**  
19511 Tyler Road  
23 Perris, CA 92570  
24 Smog Check Inspector License No. EO 637265  
Smog Check Repair Technician License No.  
25 EI 637265  
26  
27 Respondents.

Case No. 79/16-3305

**A C C U S A T I O N**

(Smog Check)

1 Complainant alleges:

2 **PARTIES**

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

5 **U S A Smog Automotive**

6 2. On or about April 20, 2009, the Bureau of Automotive Repair (Bureau) issued  
7 Automotive Repair Dealer (ARD) Registration Number ARD 257842 to U S A Smog  
8 Automotive, with Essa Rasheed Joulani as owner (Respondent U S A Smog). The ARD  
9 Registration was in full force and effect at all times relevant to the charges brought herein and will  
10 expire on March 31, 2018, unless renewed.

11 3. On or about May 4, 2009, the Bureau issued Smog Check Station License Number  
12 RC 257842 to Respondent U S A Smog. The Smog Check Station License was in full force and  
13 effect at all times relevant to the charges brought herein and will expire on March 31, 2018, unless  
14 renewed.

15 **Tarek Essa Joulani**

16 4. On or about June 9, 2014, the Bureau issued Smog Check Inspector (EO) License  
17 Number EO 636971 to Tarek Essa Joulani (Respondent Tarek Joulani). The license was in full  
18 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
19 2018, unless renewed.

20 **Iyad A. Alsayeh**

21 5. On or about December 19, 2014, the Bureau issued Smog Check Inspector (EO)  
22 License Number EO 637265 to Iyad A. Alsayeh (Respondent Iyad Alsayeh). The Smog Check  
23 Inspector license was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on September 30, 2018, unless renewed. On or about September 5, 2014, the Bureau  
25 also issued Smog Check Repair Technician (EI) License Number EI 637265 to Respondent Iyad  
26 Alsayeh. The Smog Check Repair Technician license was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

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1 **JURISDICTION**

2 6. This Accusation is brought before the Director of the Department of Consumer Affairs  
3 (Director) for the Bureau of Automotive Repair, under the authority of the following laws. All  
4 references are to the Business and Professions Code, unless otherwise specified.

5 7. Code section 9884.7 provides that the Director may revoke or suspend an automotive  
6 repair dealer registration.

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

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

14 10. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
15 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
16 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of  
17 jurisdiction to proceed with disciplinary action.

18 11. Health & Saf. Code section 44072.8 provides that when a license has been revoked or  
19 suspended following a hearing under this article, any additional license issued under this chapter in  
20 the name of the licensee may be likewise revoked or suspended by the Director.

21 **STATUTORY PROVISIONS**

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

23 (a) The director, where the automotive repair dealer cannot show there was  
24 a bona fide error, may refuse to validate, or may invalidate temporarily or  
25 permanently, the registration of an automotive repair dealer for any of the following  
26 acts or omissions related to the conduct of the business of the automotive repair  
27 dealer, which are done by the automotive repair dealer or any automotive  
28 technician, employee, partner, officer, or member of the automotive repair dealer.

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

5 . . . .

6 (4) Any other conduct which constitutes fraud.

7 . . . .

8 13. Health & Saf. Code section 44012 states:

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

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

25 . . . .

26 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative  
27 system and crankcase ventilation system are tested to reduce any nonexhaust  
28 sources of volatile organic compound emissions, in accordance with procedures  
prescribed by the department.

. . . .

(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.

(g) A determination as to whether the motor vehicle complies with the  
emission standards for that vehicle's class and model-year as prescribed by the  
department.

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1 (i) The test procedures may authorize smog check stations to refuse the  
2 testing of a vehicle that would be unsafe to test, or that cannot physically be  
3 inspected, as specified by the department by regulation. The refusal to test a vehicle  
4 for those reasons shall not excuse or exempt the vehicle from compliance with all  
5 applicable requirements of this chapter.

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12 14. Health & Saf. Code section 44015 states:

13 (a) A licensed smog check station shall not issue a certificate of compliance,  
14 except as authorized by this chapter, to any vehicle that meets the following  
15 criteria:

16 (1) A vehicle that has been tampered with.

17 . . . .

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

21 . . . .

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

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

26 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
27 Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted  
28 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 . . .

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

. . . .

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

. . . .

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

1 **REGULATIONS**

2 17. California Code of Regulations, title 16, section 3340.24, subdivision (c) states:

3 “The bureau may suspend or revoke the license of or pursue other legal action against a  
4 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
5 certificate of noncompliance.”

6 18. California Code of Regulations, title 16, section 3340.35, states:

7 “. . . .

8 “(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner  
9 or operator of any vehicle that has been inspected in accordance with the procedures specified in  
10 section 3340.42 of this article and has all the required emission control equipment and devices  
11 installed and functioning correctly. . . .”

12 19. California Code of Regulations, title 16, section 3340.42, states:

13 “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by  
14 section 3340.45.

15 “(a) All vehicles subject to a smog check inspection, shall receive one of the following test  
16 methods:

17 “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year  
18 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-  
19 mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen  
20 emissions, as contained in the bureau's specifications referenced in subsection (a) of Section  
21 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test  
22 equipment, including a chassis dynamometer, certified by the bureau.

23 “On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection  
24 shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table  
25 (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby  
26 incorporated by reference. If the emissions standards for a specific vehicle are not included in this  
27 table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE  
28 I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured

1 emissions are less than or equal to the applicable emission standards specified in the applicable  
2 table.

3 “(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-  
4 year vehicles, except diesel-powered, registered in all program areas of the state, except in those  
5 areas of the state where the enhanced program has been implemented. The two-speed idle mode  
6 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and  
7 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of  
8 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall be  
9 measured and compared to the emission standards set forth in this section and as shown in TABLE  
10 III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less than or  
11 equal to the applicable emissions standards specified in Table III.

12 “(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered  
13 vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer.  
14 The OBD test failure criteria are specified in section 3340.42.2.

15 “(b) In addition to subsection (a), all vehicles subject to the smog check program shall  
16 receive the following:

17 “(1) A visual inspection of emission control components and systems to verify the vehicle's  
18 emission control systems are properly installed.

19 “(2) A functional inspection of emission control systems as specified in the Smog Check  
20 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper  
21 operation. . . .”

22 20. California Code of Regulations, title 16, section 3340.30, subdivision (a) states:

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

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

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1 **COST RECOVERY**

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

6 **VIDEO SURVEILLANCE OPERATION - FEBRUARY 25, 2016**

7 22. On February 25, 2016, the Bureau conducted a video surveillance operation of  
8 Respondent U S A Smog. On that date, a representative of the Bureau drove a 1992 Toyota to  
9 Respondent U S A Smog for a smog check. The Toyota's original fuel filler pipe assembly was  
10 removed and replaced with one that was defective, which would result in the Toyota not passing  
11 the Low Pressure Fuel Evaporative Test (LPFET) during the smog check.<sup>1</sup> Information obtained  
12 from the Bureau's Vehicle Information Database (VID) revealed that Respondent Iyad Alsayeh  
13 conducted the smog inspection on the Toyota and entered a "pass" for the LPFET inspection. In  
14 fact, Respondent Iyad Alsayeh did not conduct the required LPFET inspection, as the surveillance  
15 video showed that the LPFET equipment was not connected to the vehicle during the smog check.  
16 This resulted in the issuance of fraudulent certificate of compliance for the vehicle.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statement)**

19 23. Respondent U S A Smog's ARD Registration is subject to disciplinary action under  
20 Code section 9884.7, subdivision (a)(1), in that Respondent U S A Smog made or authorized  
21 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
22 misleading as follows: Respondent U S A Smog's technician, Iyad Alsayeh, certified that the 1992  
23 Toyota had passed the LPFET, when in fact that test was never performed on the Toyota.

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27 <sup>1</sup> The LPFET test is performed on 1995 and older vehicles. During the smog check, the Fuel  
28 Evaporative Test machine is connected to the vehicle and tests the integrity of the vehicle's fuel evaporative  
system. The Fuel Evaporative Test machine gives a result of pass or fail, which the technician enters into the  
BAR-97 Emissions Inspection System (EIS).



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**SECOND CAUSE FOR DISCIPLINE**

**(Fraud)**

24. Respondent U S A Smog’s ARD Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud by issuing an electronic smog certificate of compliance for the 1992 Toyota, identified above, without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

**THIRD CAUSE FOR DISCIPLINE**

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

25. Respondent U S A Smog’s smog check station license is subject to disciplinary action under Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

- a. **Section 44012:** Respondent failed to perform emission control tests on the 1992 Toyota, identified above, in accordance with procedures prescribed by the department.
- b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the 1992 Toyota, identified above, without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Saf. Code section 44012.

**FOURTH CAUSE FOR DISCIPLINE**

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

26. Respondent U S A Smog’s smog check station license is subject to disciplinary action under Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

- a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an electronic smog certificate of compliance for the 1992 Toyota, identified above.



1 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
2 electronic smog certificate of compliance for the 1992 Toyota, identified above.

3 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 1992  
4 Toyota, identified above, in accordance with Health & Saf. Code sections 44012 and 44035, and  
5 California Code of Regulations, title 16, section 3340.42.

6 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1992  
7 Toyota, identified above, in accordance with the Bureau's specifications.

8 **EIGHTH CAUSE FOR DISCIPLINE**

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

10 30. Respondent Iyad Alsayeh's Smog Check Inspector (EO) License and Smog Check  
11 Repair Technician (EI) License are subject to disciplinary action under Code section 44072.2,  
12 subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby  
13 another is injured by issuing an electronic smog certificate of compliance to the 1992 Toyota,  
14 identified above, without performing a bona fide inspection of the emission control devices and  
15 systems on the vehicle, thereby depriving the People of the State of California of the protection  
16 afforded by the Motor Vehicle Inspection Program.

17 **VIDEO SURVEILLANCE OPERATION – APRIL 27, 2016**

18 31. On April 27, 2016, the Bureau conducted a second video surveillance operation of  
19 Respondent U S A Smog. On that date, a representative of the Bureau drove a 1995 Toyota to  
20 Respondent U S A Smog for a smog check. The Toyota's original fuel inlet pipe was removed  
21 and replaced with one that was defective, which would result in the Toyota not passing the Low  
22 Pressure Fuel Evaporative Test (LPFET) during the smog check. Information obtained from the  
23 Bureau's Vehicle Information Database (VID) revealed that Respondent Tarek Joulani conducted  
24 the smog inspection on the Toyota and entered a "pass" for the LPFET inspection. In fact,  
25 Respondent Tarek Joulani did not conduct the required LPFET inspection, as the surveillance  
26 video showed that the LPFET equipment was not connected to the vehicle during the smog check.  
27 This resulted in the issuance of fraudulent certificate of compliance for the vehicle.

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1 **NINETH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statement)**

3 32. Respondent U S A Smog's ARD Registration is subject to disciplinary action under  
4 Code section 9884.7, subdivision (a)(1), in that Respondent U S A Smog made or authorized  
5 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
6 misleading as follows: Respondent U S A Smog's technician, Tarek Joulani, certified that the  
7 1995 Toyota had passed the LPFET, when in fact that test was never performed on the Toyota.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 33. Respondent U S A Smog's ARD Registration is subject to disciplinary action under  
11 Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud  
12 by issuing an electronic smog certificate of compliance for the 1995 Toyota, identified above,  
13 without performing a bona fide inspection of the emission control devices and systems on the  
14 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
15 Motor Vehicle Inspection Program.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

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

18 34. Respondent U S A Smog's smog check station license is subject to disciplinary action  
19 under Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions  
20 of that Code, as follows:

21 a. **Section 44012:** Respondent failed to perform emission control tests on the 1995  
22 Toyota, identified above, in accordance with procedures prescribed by the department.

23 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
24 the 1995 Toyota, identified above, without properly testing and inspecting the vehicle to determine  
25 if it was in compliance with Health & Saf. Code section 44012.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

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

4 35. Respondent U S A Smog's smog check station license is subject to disciplinary action  
5 under Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions  
6 of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
8 electronic smog certificate of compliance for the 1995 Toyota, identified above.

9 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate  
10 of compliance for the 1995 Toyota, identified above, even though that vehicle had not been  
11 inspected in accordance with section 3340.42.

12 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1995  
13 Toyota, identified above, in accordance with the Bureau's specifications.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

16 36. Respondent U S A Smog's smog check station license is subject to disciplinary action  
17 under Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent  
18 or deceitful acts whereby another is injured by issuing an electronic smog certificate of compliance  
19 to the 1995 Toyota, identified above, without performing a bona fide inspection of the emission  
20 control devices and system on the vehicle, thereby depriving the People of the State of California  
21 of the protection afforded by the Motor Vehicle Inspection Program.

22 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

24 37. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
25 disciplinary action under Health & Saf. Code section 44072.2, subdivision (a), in that he failed to  
26 comply with provisions of that Code, as follows:

27 a. **Section 44012:** Respondent failed to perform emission control tests on the 1995  
28 Toyota, identified above, in accordance with procedures prescribed by the department.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

4 38. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
5 disciplinary action under Health & Saf. Code section 44072.2, subdivision (c), in that Respondent  
6 failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
8 electronic smog certificate of compliance for the 1995 Toyota, identified above.

9 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 1995  
10 Toyota, identified above, in accordance with Health & Saf. Code sections 44012 and 44035, and  
11 California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1995  
13 Toyota, identified above, in accordance with the Bureau's specifications.

14 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

16 39. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
17 disciplinary action under Code section 44072.2, subdivision (d), in that Respondent committed  
18 dishonest, fraudulent or deceitful acts whereby another is injured by issuing an electronic smog  
19 certificate of compliance to the 1995 Toyota, identified above, without performing a bona fide  
20 inspection of the emission control devices and systems on the vehicle, thereby depriving the People  
21 of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

22 **VIDEO SURVEILLANCE OPERATION – MAY 6, 2016**

23 40. On May 6, 2016, the Bureau conducted a third video surveillance operation of  
24 Respondent U S A Smog. On that date, a representative of the Bureau drove a 1991 Buick to  
25 Respondent U S A Smog for a smog check. The Buick's original hose located between the steel  
26 line from the fuel tank and the plastic line to the vent orifice on the Evaporative Control Canister  
27 was removed and replaced with one that was defective, which would result in the Buick not  
28 passing the Low Pressure Fuel Evaporative Test (LPFET) during the smog check. Information

1 obtained from the Bureau's Vehicle Information Database (VID) revealed that Respondent Tarek  
2 Joulani conducted the smog inspection on the Buick and entered a "pass" for the LPFET  
3 inspection. In fact, Respondent Tarek Joulani did not conduct the required LPFET inspection, as  
4 the surveillance video showed that the LPFET equipment was not connected to the vehicle during  
5 the smog check. This resulted in the issuance of fraudulent certificate of compliance.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statement)**

8 41. Respondent U S A Smog's ARD Registration is subject to disciplinary action under  
9 Code section 9884.7, subdivision (a)(1), in that Respondent U S A Smog made or authorized  
10 statements which it knew or in the exercise of reasonable care should have known to be untrue or  
11 misleading as follows: Respondent U S A Smog's technician, Tarek Joulani, certified that the  
12 1991 Buick had passed the LPFET, when in fact that test was never performed on the Buick.

13 **EIGHTEENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 42. Respondent U S A Smog's ARD Registration is subject to disciplinary action under  
16 Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud  
17 by issuing an electronic smog certificate of compliance for the 1991 Buick, identified above,  
18 without performing a bona fide inspection of the emission control devices and systems on the  
19 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
20 Motor Vehicle Inspection Program.

21 **NINETEENTH CAUSE FOR DISCIPLINE**

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

23 43. Respondent U S A Smog's smog check station license is subject to disciplinary action  
24 under Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions  
25 of that Code, as follows:

26 a. **Section 44012:** Respondent failed to perform emission control tests on the 1991  
27 Buick, identified above, in accordance with procedures prescribed by the department.

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1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

3 46. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
4 disciplinary action under Health & Saf. Code section 44072.2, subdivision (a), in that he failed to  
5 comply with provisions of that Code, as follows:

6 a. **Section 44012**: Respondent failed to perform emission control tests on the 1991  
7 Buick, identified above, in accordance with procedures prescribed by the department.

8 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

11 47. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
12 disciplinary action under Health & Saf. Code section 44072.2, subdivision (c), in that Respondent  
13 failed to comply with provisions of California Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an  
15 electronic smog certificate of compliance for the 1991 Buick, identified above.

16 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the 1991  
17 Buick, identified above, in accordance with Health & Saf. Code sections 44012 and 44035, and  
18 California Code of Regulations, title 16, section 3340.42.

19 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the 1991  
20 Buick, identified above, in accordance with the Bureau's specifications.

21 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

23 48. Respondent Tarek Joulani's Smog Check Inspector (EO) License is subject to  
24 disciplinary action under Code section 44072.2, subdivision (d), in that Respondent committed  
25 dishonest, fraudulent or deceitful acts whereby another is injured by issuing an electronic smog  
26 certificate of compliance to the 1991 Buick, identified above, without performing a bona fide  
27 inspection of the emission control devices and systems on the vehicle, thereby depriving the People  
28 of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 **OTHER MATTERS**

2 49. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
3 refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of  
4 business operated in this state by Essa Rasheed Joulani, owner of Respondent U S A Smog, upon  
5 a finding that said Respondent has, or is, engaged in a course of repeated and willful violations of  
6 the laws and regulations pertaining to an automotive repair dealer.

7 50. Pursuant to Health & Saf. Code section 44072.8, if Smog Check License Number RC  
8 257842, issued to Essa Rasheed Joulani, owner of Respondent U S A Smog, is revoked or  
9 suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health &  
10 Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

11 51. Under Health and Saf. Code section 44072.8, if Smog Check Inspector License  
12 Number EO 636971 issued to Respondent Tarek Essa Joulani is revoked or suspended, any  
13 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the  
14 name of said licensee may be likewise revoked or suspended by the Director.

15 52. Under Health and Saf. Code section 44072.8, if Smog Check Inspector License  
16 Number EO 637265 or Smog Check Repair Technician License Number EI 637265 issued to  
17 Respondent Iyad A. Alsayeh is revoked or suspended, any additional license issued under  
18 Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said licensee may be  
19 likewise revoked or suspended by the Director.

20 **DISCIPLINE CONSIDERATIONS**

21 53. To determine the degree of discipline, if any, to be imposed on Respondent Iyad  
22 Alsayeh, Complainant alleges that Iyad Alsayeh was issued Citation No. M2015-2079 on  
23 September 4, 2015, for a Notice of Abatement for certifying a 1999 Ford F-350 Diesel using the  
24 BAR97 when the OBD Inspection System (OIS) was required. The decision became effective  
25 November 11, 2015.

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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 or suspending Automotive Repair Dealer Registration Number ARD  
5 257842 issued to U S A Smog Automotive, with Essa Rasheed Joulani as owner;

6 2. Revoking or suspending any other automotive repair dealer registration issued  
7 to Essa Rasheed Joulani;

8 3. Revoking or suspending Smog Check Station License Number RC 257842 issued to U  
9 S A Smog Automotive, with Essa Rasheed Joulani as owner;

10 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
11 Division 26 of the Health & Saf. Code in the name of Essa Rasheed Joulani;

12 5. Revoking or suspending Smog Check Inspector License Number EO 636971 issued to  
13 Tarek Essa Joulani;

14 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
15 Division 26 of the Health & Saf. Code in the name of Tarek Essa Joulani;

16 7. Revoking or suspending Smog Check Inspector License No. EO 637265 issued to  
17 Iyad A. Alsayeh;

18 8. Revoking or suspending Smog Check Repair Technician License No. EI 637265  
19 issued to Iyad A. Alsayeh;

20 9. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
21 Division 26 of the Health & Saf. Code in the name of Iyad A. Alsayeh;

22 10. Ordering U S A Smog Automotive, Essa Rasheed Joulani, Tarek Essa Joulani and  
23 Iyad A. Alsayeh to pay the Bureau of Automotive Repair the reasonable costs of the investigation  
24 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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11. Taking such other and further action as deemed necessary and proper.

DATED: October 24, 2017 Patrick Dorais

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

SD2016703354