

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

In the Matter of the Accusation Against:

VTEC MOTOR SPORTS
2527 South Winchester Boulevard
Campbell, CA 95008
ZIA G. SIMON, AKA
ZIA GHATERCHI SIMON, OWNER

Automotive Repair Dealer No. ARD 217196
Smog Check Station License No. RC 217196

**ZIA GHATERCHI SIMON, AKA
ZIA G. SIMON**
2527 South Winchester Boulevard
Campbell, CA 95008

Advanced Emission Specialist Technician
License No. EA 148242

Case No. 79/12-155

Respondent.

DECISION

The attached Stipulated Settlement and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective 9/14/12.

DATED: August 29, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/12-155

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15 **ZIA G. SIMON, AKA**
ZIA GHATERCHI SIMON, OWNER

**STIPULATED SETTLEMENT AND
ORDER**

16 **Automotive Repair Dealer No. ARD 217196**
Smog Check Station License No. RC 217196

17 **ZIA GHATERCHI SIMON, AKA**
18 **ZIA G. SIMON**
2527 South Winchester Boulevard
19 **Campbell, CA 95008**

20 **Advanced Emission Specialist Technician**
License No. EA 148242

21 Respondent.

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
24 proceeding that the following matters are true:

25 PARTIES

26 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
27 brought this action solely in his official capacity and is represented in this matter by Kamala D.
28

1 Harris, Attorney General of the State of California, by Shana A. Bagley, Deputy Attorney
2 General.

3 2. Zia G. Simon, also known as Zia Ghaterchi Simon, doing business as VTEC Motor
4 Sports, (Respondent) is representing himself in this proceeding and has chosen not to exercise his
5 right to be represented by counsel.

6 3. On or about January 1, 2001, the Bureau of Automotive Repair issued Automotive
7 Repair Dealer Registration No. ARD 217196 to Respondent. The Automotive Repair Dealer
8 Registration was in full force and effect at all times relevant to the charges brought in Accusation
9 No. 79/12-155 and will expire on July 31, 2012, unless renewed.

10 4. On or about January 22, 2004, the Bureau of Automotive Repair issued Smog Check
11 Station License No. RC 217196 to Respondent. The Smog Check Station License was due to
12 expire on July 31, 2012, but was cancelled on June 9, 2011.

13 5. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist
14 Technician License Number EA 148242 to Respondent. The Advanced Emission Specialist
15 Technician License was suspended on October 5, 2011, was due to expire on May 31, 2012 and
16 has not been renewed.

17 JURISDICTION

18 6. Accusation No. 79/12-155 was filed before the Director of Consumer Affairs
19 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
20 Respondent. The Accusation and all other statutorily required documents were properly served
21 on Respondent on June 7, 2012. Respondent timely filed his Notice of Defense contesting the
22 Accusation. A copy of Accusation No. 79/12-155 is attached as exhibit A and incorporated by
23 reference.

24 ADVISEMENT AND WAIVERS

25 7. Respondent has carefully read, and understands the charges and allegations in
26 Accusation No. 79/12-155. Respondent also has carefully read, and understands the effects of
27 this Stipulated Settlement and Order.
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1 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director
2 shall not be disqualified from further action by having considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Order, including facsimile signatures thereto, shall have the same force and effect as the
5 originals.

6 14. This Stipulated Settlement and Order is intended by the parties to be an integrated
7 writing representing the complete, final, and exclusive embodiment of their agreement. It
8 supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Order may not
10 be altered, amended, modified, supplemented, or otherwise changed except by a writing executed
11 by an authorized representative of each of the parties.

12 15. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Director may, without further notice or formal proceeding, issue and enter the following
14 Order:

15 **ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 217196,
17 Smog Check Station License No. RC 217196, and Advanced Emission Specialist Technician
18 License Number EA 148242 issued to Respondent Zia G. Simon, also known as Zia Ghaterchi
19 Simon, doing business as VTEC Motor Sports, are revoked.

20 1. The revocation of Respondent's Automotive Repair Dealer Registration, Smog Check
21 Station License, and the Advanced Emission Specialist Technician License shall constitute the
22 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
23 and shall become a part of Respondent's license history with the Bureau of Automotive Repair.

24 2. Respondent shall lose all rights and privileges as a technician in California as of the
25 effective date of the Director's Decision and Order.

26 3. Respondent shall cause to be delivered to the Bureau his Automotive Repair Dealer
27 Registration, Smog Check Station License, and the Advanced Emission Specialist Technician
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1 License pocket licenses and, if issued, his wall certificates on or before the effective date of the
2 Decision and Order.

3 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
4 California, the Bureau shall treat it as a new application for licensure. Respondent must comply
5 with all the laws, regulations and procedures for licensure in effect at the time the application or
6 petition is filed, and all of the charges and allegations contained in Accusation No. 79/12-155
7 shall be deemed to be true, correct and admitted by Respondent when the Director determines
8 whether to grant or deny the application or petition.

9 5. On or about May 25, 2011, the Bureau issued Citation No. C2011-1396 against
10 Respondent's Smog Check Station License No. RC 217196 and assessed an administrative fine
11 for \$1,000.00. On or about May 25, 2011, the Bureau issued Citation No. M2011-1397 against
12 Respondent's Advanced Emission Specialist Technician License No. EA 148242 and ordered him
13 to complete an 8-Hour Training Course. The Bureau agrees to waive these citation penalties
14 unless and until any Respondent in these proceedings applies for reinstatement of his Automotive
15 Repair Dealer Registration or for any new registration or license with the Bureau, in which case
16 Respondent(s) shall comply with the penalties in full at the time when such application is made.

17 6. The total costs of investigation and enforcement of this case are \$1,357.50. These
18 costs are the actual and total costs incurred by the Bureau to investigate and prosecute the case,
19 and all Respondents in these proceedings shall be jointly and severally liable for their payment to
20 the Bureau. The Bureau agrees to waive recovery of these costs unless and until any Respondent
21 in these proceedings applies for reinstatement of his Automotive Repair Dealer Registration or for
22 any new registration or license with the Bureau, in which case Respondent(s) shall pay these costs
23 in full at the time when such application is made.

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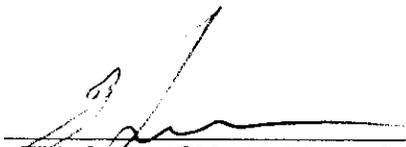
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Order. I understand the stipulation and the effect it will have on my Repair Dealer Registration, Smog Check Station License, and Advanced Emission Specialist Technician License. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED:

6/26/12



ZIA G. SIMON, ALSO KNOWN AS ZIA GHATERCHI SIMON, DOING BUSINESS AS VTEC MOTOR SPORTS
Respondent

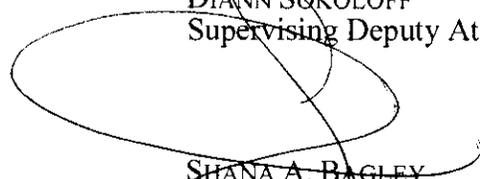
ENDORSEMENT

The foregoing Stipulated Settlement and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 21 June 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

SF2012900866/ Stipulation.rtf

Exhibit A

Accusation No. 79/12-155

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Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
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16 **ZIA G. SIMON, AKA**
17 **ZIA GHATERCHI SIMON, OWNER**
18 **Automotive Repair Dealer No. ARD 217196**
19 **Smog Check Station License No. RC 217196**

A C C U S A T I O N
S M O G C H E C K

20 **ZIA GHATERCHI SIMON, AKA**
21 **ZIA G. SIMON**
22 **2527 South Winchester Boulevard**
23 **Campbell, CA 95008**
24 **Advanced Emission Specialist Technician**
25 **License No. EA 148242**

26 Respondents.

27 Complainant alleges:

28 **PARTIES**

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

Automotive Repair Dealer Registration

2. On a date uncertain in 2001, the Bureau issued Automotive Repair Dealer Registration Number ARD 217196 to Zia G. Simon, also known as Zia Ghaterchi Simon

1 ("Respondent"), doing business as VTEC Motor Sports. The automotive repair dealer
2 registration was in full force and effect at all times relevant to the charges brought herein and was
3 due to expire on July 31, 2012; however, the license was suspended on November 28, 2011.

4 **Smog Check Station License**

5 3. On or about January 22, 2004, the Bureau issued Smog Check Station License
6 Number RC 217196 ("station license") to Respondent. The station license was in full force and
7 effect at all times relevant to the charges brought herein and was due to expire on July 31, 2012;
8 however, the station license was cancelled on June 9, 2011.

9 **Advanced Emission Specialist Technician License**

10 On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist
11 Technician License Number EA 148242 ("technician license") to Respondent. The technician
12 license was in full force and effect at all times relevant to the charges brought herein and is due to
13 expire on May 31, 2012; however, the technician license was suspended on October 5, 2011.

14 **STATUTORY PROVISIONS**

15 4. Section 118, subdivision (b), of the Business and Professions Code provides that the
16 suspension/expiration/surrender/cancellation of a license shall not deprive the
17 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
18 within which the license may be renewed, restored, reissued or reinstated.

19 5. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
20 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
21 the Motor Vehicle Inspection Program.

22 6. Section 44050 of the Health and Safety Code states, in pertinent part:

23 (a) In addition to or in lieu of any other remedy or penalty, including, but
24 not limited to, education, training, or an office conference, the department may issue
25 a citation to a licensee, contractor, or fleet owner for a violation of the requirements
of this chapter or a regulation adopted pursuant to this chapter. The citation may
contain an order of abatement or the assessment of an administrative fine, or both.

26 (e) Failure to comply with an order of abatement or payment of an
27 administrative fine issued by the department pursuant to this section is grounds for
suspension or revocation of the license, or placing the license on probation.

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1 7. Section 44055 of the Health and Safety Code, subdivision (b) states:

2 (b) The department may deny an application for the renewal of a test
3 station or repair station license if the applicant, or any partner, officer, or director
4 thereof, has failed to pay any civil penalty or administrative fine in accordance with
5 this article.

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

10 9. Section 44072.8 of the Health and Safety Code states:

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

14 COST RECOVERY

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

19 FIRST CAUSE FOR DISCIPLINE

20 (Failure to Pay Administrative Fine)

21 11. Respondent has subjected his station license to discipline pursuant to Health and
22 Safety Code section 44050, subdivision (e), in that on or about May 25, 2011, the Bureau issued
23 Citation No. C2011-1396 to Respondent against his station license for violations of Health and
24 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
25 emission control devices) and California Code of Regulations, title 16, ("Regulation"), section
26 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). On
27 June 9, 2011, the Bureau served Respondent with the citation. The Bureau assessed an
28 administrative fine in the amount of \$1,000. However, Respondent failed to appeal the citation or
29 pay the administrative fine within thirty (30) days of service of the citation.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Failure to Complete Training)

3 12. Respondent has subjected his technician license to discipline pursuant to Health and
4 Safety Code section 44050, subdivision (e), in that on or about May 25, 2011, the Bureau issued
5 Citation No. M2011-1397 to Respondent against his technician license for violations of Health
6 and Safety Code section 44032, (qualified technicians shall perform tests of emission control
7 systems and devices in accordance with section 44012 of that Code) and California Code of
8 Regulations, title 16, ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall
9 inspect, test, and repair vehicles in accordance with sections 44012 and 44035 of the Health and
10 Safety Code, and Regulation section 3340.42). On June 9, 2011, the Bureau served Respondent
11 with the citation, which required Respondent to complete an 8-Hour Training Course. However,
12 Respondent did not appeal the citation within thirty (30) days of service of the citation nor has
13 Respondent completed the required training.

14 OTHER MATTERS

15 13. Under Health and Safety Code section 44072.8, if Smog Check Station License
16 Number RC 217196, issued to Zia G. Simon, also known as Zia Ghaterchi Simon, is revoked or
17 suspended, any additional license issued under this chapter in the name of said licensee may be
18 likewise revoked or suspended by the director.

19 14. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
20 Technician License Number EA 148242, issued to Zia Ghaterchi Simon, also known as Zia G.
21 Simon, is revoked or suspended, any additional license issued under this chapter in the name of
22 said licensee may be likewise revoked or suspended by the director.

23 PRAYER

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

26 1. Revoking or suspending Smog Check Station License Number RC 217196, issued to
27 Zia G. Simon, also known as Zia Ghaterchi Simon, doing business as VTEC Motor Sports;

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- 1 2. Revoking or suspending Advanced Emission Specialist Technician License Number
2 EA 148242, issued to Zia Ghaterchi Simon, also known as Zia G. Simon;
- 3 3. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of Zia G. Simon, also known as Zia Ghaterchi Simon;
- 5 4. Ordering Zia G. Simon, also known as Zia Ghaterchi Simon to pay the Bureau of
6 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
7 pursuant to Business and Professions Code section 125.3; and,
- 8 5. Taking such other and further action as deemed necessary and proper.

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11 DATED: May 31, 2012


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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