

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

In the Matter of the Accusation Against:

**TAILPIPES SMOG TEST CENTERS, INC.**  
**dba TAILPIPES SMOG TEST CENTER**  
**JEFFREY R. STOWERS, President**  
2830 Northgate Blvd.  
Sacramento, California 95833

Case No. 79/10-83

Mailing Address:

10433 Folsom Blvd.  
Rancho Cordova, California 95670  
Automotive Repair Dealer Registration  
No. ARD 230405  
Smog Check, Test Only, Station License  
No. TC 230405

**TAILPIPES SMOG TEST CENTERS, INC.**  
**dba TAILPIPES SMOG TEST CENTER**  
**JEFFREY R. STOWERS, President**  
4701 San Juan Avenue  
Fair Oaks, California 95628

Mailing Address:

10433 Folsom Blvd.  
Rancho Cordova, California 95670

Automotive Repair Dealer Registration  
No. ARD 226900  
Smog Check, Test Only, Station License  
No. TC 226900

**TAILPIPES SMOG TEST CENTERS, INC.**  
**dba TAILPIPES SMOG TEST CENTER**  
**JEFFREY R. STOWERS, President**  
5851 Fair Oaks Blvd.  
Carmichael, California 95608

Automotive Repair Dealer Registration  
No. ARD 222099  
Smog Check, Test Only, Station License  
No. TC 222099

**TAILPIPES SMOG TEST CENTERS, INC.**  
**dba TAILPIPES SMOG TEST CENTER**  
**JEFFREY R. STOWERS, President**  
625 Vernon Street  
Roseville, California 95678

Automotive Repair Dealer Registration  
No. ARD 212270  
Smog Check, Test Only, Station License  
No. TC 212270

and

**VIRASANE KEOONLA**  
8613 Oldwoods Way

Sacramento, California 95828

Advanced Emission Specialist Technician  
License No. EA 142363

Respondents.

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Tailpipes Smog Test Centers, Inc., dba Tailpipes Smog Test Center, Jeffrey R. Stowers, President, Automotive Repair Dealer Registration No. ARD 230405, Automotive Repair Dealer Registration No. ARD 226900, Automotive Repair Dealer Registration No. ARD 222099, Automotive Repair Dealer Registration No. ARD 212270, Smog Check, Test Only, Station License No. TC 230405, and Smog Check, Test Only, Station License No. TC 226900, Smog Check, Test Only, Station License No. TC 222099, Smog Check, Test Only, Station License No. TC 212270.

This Decision shall become effective 6/20/11.

DATED: May 16, 2011

  
\_\_\_\_\_  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
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. 79/10-83

13 **TAILPIPES SMOG TEST CENTERS, INC., dba**  
14 **TAILPIPES SMOG TEST CENTER, JEFFREY**  
15 **R. STOWERS, PRESIDENT**  
16 2830 Northgate Blvd.  
17 Sacramento, California 95833

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18 Mailing Address:

19 10433 Folsom Blvd  
20 Rancho Cordova, California 95670  
21 Automotive Repair Dealer Reg. No. ARD 230405  
22 Smog Check, Test Only, Station License No.  
23 TC 230405

24 **TAILPIPES SMOG TEST CENTERS, INC. dba**  
25 **TAILPIPES SMOG TEST CENTER**  
26 **JEFFREY R. STOWERS, PRESIDENT**  
27 4701 San Juan Avenue  
28 Fair Oaks, California 95628

Mailing Address:

10433 Folsom Blvd  
Rancho Cordova, California 95670  
Automotive Repair Dealer Reg. No. ARD 226900  
Smog Check, Test Only, Station License No.  
TC 26900

And

**VIRASANE KEOONLA**  
8613 Oldwoods Way  
Sacramento, California 95828  
Advanced Emission Specialist Technician License  
No. EA 142363

Respondents.

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair,  
5 Department of Consumer Affairs, State of California. She brought this action solely in her  
6 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the  
7 State of California, by Sterling A. Smith, Deputy Attorney General.

8 2. Respondent Tailpipes Smog Test Centers, Inc., dba Tailpipes Smog Test Center and  
9 Jeffrey R. Stowers, President (Respondent) are represented in this proceeding by attorney  
10 Michael B. Levin, whose address is: 3727 Camino del Rio South, Suite 200, San Diego,  
11 California 92108

12 3. On or about November 7, 2003, the Bureau of Automotive Repair (Bureau) issued  
13 Automotive Repair Dealer Registration No. ARD 230405 to Respondent Tailpipes Smog Test  
14 Centers, Inc., dba Tailpipes Smog Test Center, with Jeffrey R. Stowers as its President  
15 (Respondent), for the premises located at 2830 Northgate Blvd., Sacramento, California 95670.  
16 The Automotive Repair Dealer Registration expired on October 31, 2009, and has not been  
17 renewed.

18 4. On or about December 2, 2003, the Bureau issued Smog Check, Test Only, Station  
19 License No. TC 230405 to Respondent Tailpipes Smog Test Centers, Inc., dba Tailpipes Smog  
20 Test Center, with Jeffrey R. Stowers as its President (Respondent), for the premises located at  
21 2830 Northgate Blvd., Sacramento, California 95670. The Smog Check, Test Only, Station  
22 License expired on October 31, 2009, and has not been renewed.

23 5. On or about March 23, 2003, the Bureau issued Automotive Repair Dealer  
24 Registration No. ARD 226900 to Respondent Tailpipes Smog Test Centers, Inc., dba Tailpipes  
25 Smog Test Center (Respondent), with Jeffrey R. Stowers as its President, for the premises located  
26 at 4701 San Juan Avenue, Fair Oaks, California 95628. The Automotive Repair Dealer  
27 Registration expired on March 31, 2010, and has not been renewed.

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1 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel  
2 the attendance of witnesses and the production of documents; the right to reconsideration and  
3 court review of an adverse decision; and all other rights accorded by the California  
4 Administrative Procedure Act and other applicable laws.

5 12. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
6 every right set forth above.

7 CULPABILITY

8 13. Respondent admits the truth of each and every charge and allegation in Accusation  
9 No. 79/10-83. Such admissions, and any other admissions which may be express, implied,  
10 general or specific are for the purpose of discipline and do not constitute admissions for any other  
11 purpose or in any third party civil, criminal, administrative proceedings or other proceeding in  
12 which the Department of Consumer Affairs or the Bureau of Automotive Repair is not a party.

13 14. Respondent agrees that its Automotive Repair Dealer Registrations and Smog Check,  
14 Test Only, Station Licenses are subject to discipline and agrees to be bound by the Director of  
15 Consumer Affairs (Director)'s terms as set forth in the Disciplinary Order below.

16 CONTINGENCY

17 15. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
18 his designee. Respondent understands and agrees that counsel for Complainant and the staff of  
19 the Bureau may communicate directly with the Director and staff of the Department of Consumer  
20 Affairs regarding this stipulation and settlement, without notice to or participation by Respondent  
21 or its counsel. By signing the stipulation, Respondent understands and agrees that it may not  
22 withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers  
23 and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the  
24 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this  
25 paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall  
26 not be disqualified from further action by having considered this matter.

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1 IT IS FURTHER ORDERED that Automotive Repair Dealer Registration  
2 No. ARD 222099, Automotive Repair Dealer Registration No. ARD 212270, Smog Check, Test  
3 Only, Station License No. TC 222099, Smog Check, Test Only, Station License No. 212270, and  
4 each of them, issued to Respondent Tailpipes Smog Test Centers, Inc., dba Tailpipes Smog Test  
5 Center, is revoked. However, as to said licenses, revocation is stayed and Respondent is placed on  
6 probation for three (3) years on the following terms and conditions.

7 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 222099,  
8 Automobile Repair Dealer Registration No. ARD 212270, Smog Check, Test Only, Station  
9 License No. TC 222099 and Smog Check, Test Only, Station License No. 212270, and each of  
10 them is suspended for five (5) consecutive business days beginning on the effective date of the  
11 decision.

12 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
13 automotive inspections, estimates and repairs.

14 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning  
15 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be  
16 conspicuously displayed in a location open to and frequented by customers and shall remain  
17 posted during the entire period of actual suspension.

18 4. **Reporting.** Respondent or Respondent's authorized representative must report in  
19 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
20 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
21 maintaining compliance with the terms and conditions of probation.

22 5. **Report Financial Interest.** Within thirty (30) days of the effective date of this  
23 action, report any financial interest which any partners, officers, or owners of the Respondent  
24 facility may have in any other business required to be registered pursuant to Section 9884.6 of the  
25 Business and Professions Code.

26 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
27 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

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1 7. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
2 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
3 until the final decision on the accusation, and the period of probation shall be extended until such  
4 decision.

5 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that  
6 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
7 after giving notice and opportunity to be heard suspend or revoke Automobile Repair Dealer  
8 Registration No. ARD 212270, Automobile Repair Dealer Registration No. ARD 222099, Smog  
9 Check, Test Only, Station License No. 212270 and Smog Check, Test Only, Station License  
10 No. 222099.

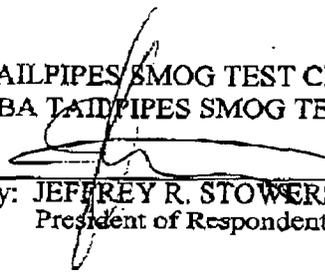
11 9. **Cost Recovery.** Payment to the Bureau \$7,212.50, which is seventy-five percent  
12 (75%) of the costs of investigation and prosecution. Said amount shall be paid in full to the  
13 Bureau not later than six (6) months before probation terminates. Failure to complete payment of  
14 cost recovery within this time frame shall constitute a violation of probation which may subject  
15 Respondent's automotive repair dealer registrations to outright revocation; however, the Director  
16 or the Director's Bureau of Automotive Repair designee may elect to continue probation until  
17 such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
20 discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will  
21 have on my Automotive Repair Dealer Registrations, and Smog Check Test Only Station  
22 Licenses. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,  
23 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
24 Affairs.

25 TAILPIPES SMOG TEST CENTERS, INC.,  
26 DBA TAILPIPES SMOG TEST CENTER

26 DATED: 27 APR 2011

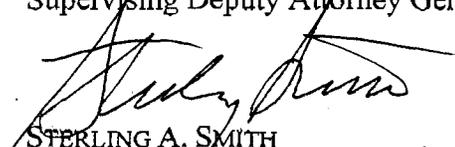
27 By:   
28 President of Respondent

1 I have read and fully discussed with Respondent Tailpipes Smog Test Centers, Inc., dba  
 2 Tailpipes Smog Test Center the terms and conditions and other matters contained in the above  
 3 Stipulated Settlement and Disciplinary Order. I approve its form and content.

4 DATED: 4/28/11   
 5 MICHAEL B. LEVIN  
 6 Attorney for Respondent

7 ENDORSEMENT

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

10 DATED: 4/29/2011 KAMALA D. HARRIS  
 11 Attorney General of California  
 12 ARTHUR D. TAGGART  
 13 Supervising Deputy Attorney General  
 14   
 15 STERLING A. SMITH  
 16 Deputy Attorney General  
 17 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 79/10-83**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

79/10-83

11 In the Matter of the Accusation Against:

Case No.

12 **TAILPIPES SMOG TEST CENTERS, INC.,**  
13 **dba TAILPIPES SMOG TEST CENTER**  
14 **JEFFERY R. STOWERS, PRESIDENT**  
2830 Northgate Blvd.  
Sacramento, CA 95833  
15 Mailing Address:  
10433 Folsom Blvd.  
16 Rancho Cordova, CA 95670  
Automotive Repair Dealer Reg. No. ARD 230405  
17 Smog Check, Test Only, Station License No. TC 230405,

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

**(Smog Check)**

18 **TAILPIPES SMOG TEST CENTERS, INC.,**  
19 **dba TAILPIPES SMOG TEST CENTER**  
20 **JEFFERY R. STOWERS, PRESIDENT**  
4701 San Juan Ave.  
Fair Oaks, CA 95628  
21 Mailing Address:  
10433 Folsom Blvd.  
22 Rancho Cordova, CA 95670  
Automotive Repair Dealer Reg. No. ARD 226900  
23 Smog Check, Test Only, Station License No. TC 226900,

24 and

25 **VIRASANE KEOONLA**  
8613 Oldwoods Way  
Sacramento, CA 95828  
26 **Advanced Emission Specialist Technician License No.**  
27 **EA 142363**

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as  
4 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

5 **Tailpipes Smog Test Centers, Inc. dba Tailpipes Smog Test Center (Sacramento)**

6 2. On or about November 7, 2003, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 230405 (hereinafter "registration") to  
8 Tailpipes Smog Test Centers, Inc. ("Respondent TSTC"), doing business as Tailpipes Smog Test  
9 Center, with Jefferey R. Stowers as president. Respondent's registration expired on October 31,  
10 2009.

11 3. On or about December 2, 2003, the Director issued Smog Check, Test Only, Station  
12 License Number TC 230405 (hereinafter "smog check station license") to Respondent TSTC.  
13 Respondent's smog check station license expired on October 31, 2009.

14 **Tailpipes Smog Test Centers, Inc. dba Tailpipes Smog Test Center (Fair Oaks)**

15 4. On or about March 28, 2003, the Director issued Automotive Repair Dealer  
16 Registration Number ARD 226900 (hereinafter "registration") to Respondent TSTC, doing  
17 business as Tailpipes Smog Test Center, with Jefferey R. Stowers as president. Respondent's  
18 registration expired on March 31, 2010.

19 5. On or about April 21, 2003, the Director issued Smog Check, Test Only, Station  
20 License Number TC 226900 (hereinafter "smog check station license") to Respondent TSTC.  
21 Respondent's smog check station license expired on March 31, 2010.

22 **Virasane Keonla**

23 6. In or about 2001, the Director issued Advanced Emission Specialist Technician  
24 License Number EA 142363 (hereinafter "technician license") to Virasane Keonla ("Respondent  
25 Keonla or "Keonla"). Respondent's technician license expired on May 31, 2009.

26 **JURISDICTION**

27 7. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
28 the Director may invalidate an automotive repair dealer registration.

1 8. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
2 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
4 temporarily or permanently.

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

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

12 **STATUTORY PROVISIONS**

13 11. Bus. & Prof. Code section 9884.7 states, in pertinent part:

14 (a) The director, where the automotive repair dealer cannot show there  
15 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
16 permanently, the registration of an automotive repair dealer for any of the following  
17 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.

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

21 . . . .

22 (4) Any other conduct which constitutes fraud.

23 . . . .

24 (c) Notwithstanding subdivision (b), the director may refuse to validate,  
25 or may invalidate temporarily or permanently, the registration for all places of  
26 business operated in this state by an automotive repair dealer upon a finding that the  
27 automotive repair dealer has, or is, engaged in a course of repeated and willful  
28 violations of this chapter, or regulations adopted pursuant to it.

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12. Bus. & Prof. Code section 22, subdivision (a), states:

"Board" as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

13. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

14. Health & Saf. Code section 44072.2 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 sections 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 . . .

15. 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:

(1) Clean piping, as defined by the department.

....

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

16. Health & Saf. Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

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1 17. Vehicle Code section 27156 states, in pertinent part:

2 . . . .

3 (b) No person shall operate or leave standing upon any highway any  
4 motor vehicle which is required to be equipped with a motor vehicle pollution control  
5 device under Part 5 (commencing with Section 43000) of Division 26 of the Health  
6 and Safety Code or any other certified motor vehicle pollution control device required  
7 by any other state law or any rule or regulation adopted pursuant to that law, or  
8 required to be equipped with a motor vehicle pollution control device pursuant to the  
National Emission Standards Act (42 U.S.C. Secs. 1857f-1 to 1857f-7, inclusive) and  
the standards and regulations adopted pursuant to that federal act, unless the motor  
vehicle is equipped with the required motor vehicle pollution control device which is  
correctly installed and in operating condition. No person shall disconnect, modify, or  
alter any such required device.

9 (c) No person shall install, sell, offer for sale, or advertise any device,  
10 apparatus, or mechanism intended for use with, or as a part of, any required motor  
11 vehicle pollution control device or system which alters or modifies the original design  
or performance of any such motor vehicle pollution control device or system.

12 (d) If the court finds that a person has willfully violated this section, the  
13 court shall impose the maximum fine that may be imposed in the case, and no part of  
the fine may be suspended . . .

#### 14 COST RECOVERY

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

#### 19 FRAUDULENT SMOG CERTIFICATES

20 19. On or about April 13, 2009, Joshua Burkey ("Burkey") placed an advertisement on  
21 craigslist online classifieds, indicating that he had a 1990 Volvo 760 Wagon equipped with a  
22 1991 Mustang Ford 5.0 302 fuel injected engine and an AOD automatic transmission (hereinafter  
23 "Volvo") for sale. The advertisement stated, "Buyer can smog (or for the right deal it can be  
24 smogged)".

25 20. That same day, a representative of the Bureau (hereinafter "representative") called the  
26 telephone number listed in the advertisement and spoke with Burkey. The representative told  
27 Burkey that he was interested in purchasing the Volvo; however, the advertisement did not list a  
28 price for the vehicle. The representative asked Burkey how much he wanted for the vehicle and

1 Burkey replied \$2,500. Burkey stated that the Volvo was equipped with an engine from a 1991  
2 Ford Mustang. The representative asked Burkey if the Volvo would pass the California  
3 Emissions Inspection. Burkey told the representative that the vehicle would not pass the  
4 inspection, but he knew a friend who could obtain a passing emissions inspection for the vehicle.  
5 The representative stated that he wanted to inspect the vehicle and take it for a test drive. Burkey  
6 agreed to meet with the representative on April 14, 2009.

7 21. On April 14, 2009, the representative met with Burkey and inspected the Volvo. The  
8 representative noted that the engine was a Ford small block, and asked Burkey why the vehicle  
9 did not have a passing emissions inspection. Burkey told the representative that the Volvo's  
10 engine was not the correct engine for the vehicle, that the catalytic converters, speed sensor, and  
11 check engine lamp were not installed on the Volvo, and that the Volvo required an inspection by  
12 the State Emissions Referee, which he did not obtain. The representative took the Volvo for a test  
13 drive accompanied by Burkey. Later, the representative told Burkey that he was interested in  
14 purchasing the vehicle and asked Burkey when he could expect to receive the passing emissions  
15 inspection. Burkey told the representative that he could have the inspection performed later that  
16 day. The representative asked Burkey how he would obtain the inspection. Burkey stated that he  
17 would take the vehicle information to a friend and that a different vehicle would be used to  
18 perform the inspection. The representative asked Burkey to contact him when the inspection was  
19 performed and he would purchase the vehicle.

20 22. On April 28, 2009, the representative and another employee of the Bureau met with  
21 Burkey. Burkey provided the representative with a vehicle inspection report ("VIR") dated April  
22 25, 2009. The representative asked Burkey how he obtained the passing emissions inspection.  
23 Burkey stated that he took the vehicle information and registration paperwork to a friend.  
24 Burkey's friend waited for a like vehicle to arrive at the testing facility and used it to obtain the  
25 inspection. The representative paid Burkey \$2,500 for the Volvo. Burkey completed and signed  
26 a Department of Motor Vehicles Bill of Sale and gave it to the representative along with a copy of  
27 the vehicle registration, a Certificate of Title showing the vehicle's owner as T.S., miscellaneous  
28 parts purchase receipts, and a repair invoice from SVS Automotive Corporation ("SVS") in

1 Sacramento, California. Burkey told the representative that he could not obtain a Certificate of  
2 Title in his name because he was unable to obtain a passing emissions inspection for the  
3 registration transfer. The representative reviewed the repair invoice from SVS. Burkey stated  
4 that SVS had inspected the Volvo and found that the vehicle speed sensor was missing and the  
5 check engine lamp was not functioning. Burkey also stated that the catalytic converters were not  
6 installed on the Volvo and were sitting in the trunk. Burkey gave the representative the keys to  
7 the Volvo.

8 23. Later that same day, the representative reviewed the VIR and information from the  
9 Bureau's Vehicle Information Database ("VID"). The VID data and VIR indicated that on April  
10 25, 2009, between 1555 and 1605 hours, Respondent Keonla had smog tested and inspected the  
11 Volvo, resulting in the issuance of electronic smog Certificate of Compliance No. NK032420C.  
12 The inspection had been conducted at Respondent TSTC's facility, Tailpipes Smog Test Center,  
13 located in Sacramento.

14 24. On May 4, 2009, the Bureau inspected the Volvo and performed a California  
15 Emissions Inspection on the vehicle. The Volvo failed the inspection due to high emissions  
16 readings and missing, modified, and disconnected emissions control equipment.

17 25. On June 3, 2009, representatives of the Bureau met with Respondent Keonla.  
18 Keonla admitted that he performed a smog inspection on the Volvo on April 25, 2009, using  
19 clean piping methods<sup>1</sup>, that he knew the vehicle was not in a condition to pass the smog  
20 inspection, that he used his personal vehicle, a Mitsubishi pickup, to perform the clean piping,  
21 and that the Volvo was not present at the facility during the smog inspection. Keonla also  
22 admitted that he clean piped another vehicle, a 1994 Acura Integra ("Acura"), on May 22, 2009,  
23 that he knew the Acura was not in a condition to pass a smog inspection, that he used a Honda  
24 Civic to clean pipe the Acura, and that the Acura was not present at the facility during the  
25 inspection.

26 \_\_\_\_\_  
27 <sup>1</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t),  
28 "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to  
cause the EIS to issue a certificate of compliance for another vehicle.



1 Acura Integra in accordance with all Bureau requirements and that the vehicle had passed  
2 inspection and was in compliance with applicable laws and regulations. In fact, Respondent  
3 Keoonla conducted the inspection using clean piping methods in order to issue a certificate for the  
4 vehicle, and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 28. Respondent TSTC's registrations are subject to disciplinary action pursuant to Bus. &  
8 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute  
9 fraud by issuing electronic smog certificates of compliance for the 1990 Volvo 760 Wagon and  
10 1994 Acura Integra without performing bona fide inspections of the emission control devices and  
11 systems on the vehicles, thereby depriving the People of the State of California of the protection  
12 afforded by the Motor Vehicle Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 29. Respondent TSTC's smog check station licenses are subject to disciplinary action  
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
17 comply with provisions of that Code, as follows:

18 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
19 performed on the 1990 Volvo 760 Wagon and 1994 Acura Integra in accordance with procedures  
20 prescribed by the department.

21 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the  
22 1990 Volvo 760 Wagon and 1994 Acura Integra without properly testing and inspecting the  
23 vehicles to determine if they were in compliance with Health & Saf. Code section 44012.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 34. Respondent Keonla's technician license is subject to disciplinary action pursuant to  
4 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
5 fraudulent, or deceitful acts whereby another is injured by issuing electronic smog certificates of  
6 compliance for the 1990 Volvo 760 Wagon and 1994 Acura Integra without performing bona fide  
7 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
8 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
9 Program.

10 **UNDERCOVER OPERATION: 1991 PONTIAC 6000**

11 35. On June 24, 2009, an undercover operator with the Bureau (hereinafter "operator")  
12 took the Bureau's 1991 Pontiac 6000 to Respondent TSTC's facility, Tailpipes Smog Test Center,  
13 located in Sacramento, California, and requested a smog inspection. The vacuum supply hose on  
14 the manifold absolute pressure (MAP) sensor on the Bureau-documented vehicle was damaged,  
15 causing the MIL to illuminate on the dashboard. After the inspection was performed, the operator  
16 paid the facility \$63 and received copies of an invoice and VIR. The VIR indicated that the  
17 vehicle passed the inspection, resulting in the issuance of electronic smog Certificate of  
18 Compliance No. NK838364C.

19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 36. Respondent TSTC's Automotive Repair Dealer Registration Number ARD 230405 is  
22 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in  
23 that Respondent made or authorized a statement which it knew or in the exercise of reasonable  
24 care should have known to be untrue or misleading, as follows: Respondent TSTC's technician,  
25 Wayne Powell ("Powell"), certified under penalty of perjury on the VIR that the Bureau's 1991  
26 Pontiac 6000 had passed inspection and was in compliance with applicable laws and regulations.  
27 In fact, the vacuum supply hose on the MAP sensor was damaged. As such, the vehicle would  
28 not pass the inspection required by Health & Saf. Code section 44012.

1 TENTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 37. Respondent TSTC's Automotive Repair Dealer Registration Number ARD 230405 is  
4 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in  
5 that it committed an act which constitutes fraud, as follows: Respondent issued an electronic  
6 smog certificate of compliance for the Bureau's 1991 Pontiac 6000 without performing a bona  
7 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the  
8 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
9 Program.

10 ELEVENTH CAUSE FOR DISCIPLINE

11 (Violations of the Motor Vehicle Inspection Program)

12 38. Respondent TSTC's Smog Check, Test Only, Station License Number TC 230405 is  
13 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in  
14 that Respondent failed to comply with the following sections of that Code:

15 a. Section 44012: Respondent failed to ensure that the emission control tests were  
16 performed on the Bureau's 1991 Pontiac 6000 in accordance with procedures prescribed by the  
17 department.

18 b. Section 44015: Respondent issued an electronic smog certificate of compliance for  
19 the Bureau's 1991 Pontiac 6000 without properly testing and inspecting the vehicle to determine  
20 if it was in compliance with Health & Saf. Code section 44012.

21 TWELFTH CAUSE FOR DISCIPLINE

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

24 39. Respondent TSTC's Smog Check, Test Only, Station License Number TC 230405 is  
25 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in

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1 that Respondent failed to comply with the provisions of California Code of Regulations, title 16,  
2 as follows:

3 a. **Section 3340.24, subdivision (c)**: Respondent TSTC falsely or fraudulently issued  
4 an electronic smog certificate of compliance for the Bureau's 1991 Pontiac 6000.

5 b. **Section 3340.35, subdivision (c)**: Respondent TSTC issued an electronic smog  
6 certificate of compliance for the Bureau's 1991 Pontiac 6000 even though the vehicle had not  
7 been inspected in accordance with Health & Saf. Code section 3340.42.

8 c. **3340.41, subdivision (c)**: Respondent TSTC permitted its technician, Powell, to  
9 knowingly enter into the EIS false information about the Bureau's 1991 Pontiac 6000.

10 d. **Section 3340.42**: Respondent TSTC failed to ensure that the required smog tests  
11 were conducted on the Bureau's 1991 Pontiac 6000 in accordance with the Bureau's  
12 specifications.

### 13 **THIRTEENTH CAUSE FOR DISCIPLINE**

#### 14 **(Dishonesty, Fraud or Deceit)**

15 40. Respondent TSTC's Smog Check, Test Only, Station License Number TC 230405 is  
16 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in  
17 that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by  
18 issuing an electronic smog certificate of compliance for the Bureau's 1991 Pontiac 6000 without  
19 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
20 thereby depriving the People of the State of California of the protection afforded by the Motor  
21 Vehicle Inspection Program.

#### 22 **OTHER MATTERS**

23 41. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
24 refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of  
25 business operated in this state by Respondent Tailpipes Smog Test Centers, Inc., doing business  
26 as Tailpipes Smog Test Center, upon a finding that Respondent has, or is, engaged in a course of  
27 repeated and willful violations of the laws and regulations pertaining to an automotive repair  
28 dealer.



1 5. Revoking or suspending Smog Check, Test Only, Station License Number TC  
2 226900, issued to Tailpipes Smog Test Centers, Inc., doing business as Tailpipes Smog Test  
3 Center;

4 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
5 and Safety Code in the name of Tailpipes Smog Test Centers, Inc.;

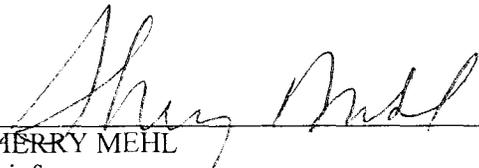
6 7. Revoking or suspending Advanced Emission Specialist Technician License Number  
7 EA 142363, issued to Virasane Keonla;

8 8. Revoking or suspending any additional license issued under Chapter 5 of the Health  
9 and Safety Code in the name of Virasane Keonla;

10 9. Ordering Tailpipes Smog Test Centers, Inc., doing business as Tailpipes Smog Test  
11 Center, and Virasane Keonla to pay the Director of Consumer Affairs the reasonable costs of the  
12 investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3;

14 10. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 6/14/10

  
\_\_\_\_\_  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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