

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

In the Matter of the Accusation Against:

SMOG BOY TEST ONLY
ROBERT AYRAPETYAN, OWNER
3601 Foothill Blvd
La Crescenta, CA 91214

Automotive Repair Dealer Reg. No.
ARD 226429
Smog Check, Test Only, Station License No.
TC 226429,

ROBERT AYRAPETYAN
2101 Conchita St.
Glendale, CA 91208

Smog Check Inspector License No. EO
140053,
Smog Check Repair Technician License
No. EI No. 140053 (redesignated from
Advanced Emission Specialist Technician
License No. EA 140053)

Respondents.

Case No. 79/13-35

OAH No. 2013020906

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.

This Decision shall become effective February 14, 2014.

DATED: JAN 27 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804
E-mail: Cristina.Felix@doj.ca.gov
7 *Attorneys for Complainant*

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

11 **In the Matter of the Accusation Against:**

12 **SMOG BOY TEST ONLY**
13 **ROBERT AYRAPETYAN, OWNER**

3601 Foothill Blvd
La Crescenta, CA 91214

14 Automotive Repair Dealer Reg. No.
15 ARD 226429
16 Smog Check, Test Only, Station License No.
TC 226429,

17 **ROBERT AYRAPETYAN**

2101 Conchita St.
Glendale, CA 91208

19 Smog Check Inspector License No. EO
140053, Smog Check Repair Technician
20 License No. EI No. 140053 (redesignated from
Advanced Emission Specialist Technician
21 License No. EA 140053)

22 Respondents.

Case No. 79/13-35

OAH No. 2013020906

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

25 ///

26 ///

27 ///

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURISDICTION

6. The First Amended Accusation No. 79/13-35 ("Accusation") was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on October 8, 2013. Respondents timely filed their Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 79/13-35 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondents have carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/13-35. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondents are fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

10. Respondents voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///
///
///
///

1 CULPABILITY

2 11. Respondents admit the truth of each and every charge and allegation in Accusation
3 No. 79/13-35.

4 12. Respondents Smog Boy Test Only and Robert Ayrapetyan agree that their
5 Automotive Repair Dealer Registration, Smog Check Test Only Station License, Smog Check
6 Inspector License and Smog Check Repair Technician License are subject to discipline and he
7 agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order
8 below.

9 CONTINGENCY

10 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or
11 the Director's designee. Respondents understand and agree that counsel for Complainant and the
12 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
13 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
14 or participation by Respondents or their counsel. By signing the stipulation, Respondents
15 understand and agree that they may not withdraw their agreement or seek to rescind the
16 stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt
17 this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall
18 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
19 between the parties, and the Director shall not be disqualified from further action by having
20 considered this matter.

21 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
22 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
23 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

24 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
28

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 16. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration Number ARD
8 226429 ("registration"), Smog Check, Test Only, Station License Number TC 226429 ("smog
9 check station license") issued to Respondent Robert Ayrapetyan, as owner of Smog Boy Test
10 Only, and Smog Check Inspector (EO) License No. 140053 and Smog Check Repair Technician
11 (EI) License No. 140053 issued to Respondent Robert Ayrapetyan are each revoked. However,
12 the revocations are stayed and Respondents are placed on concurrent probation for three (3) years
13 on the following terms and conditions.

14 1. **Actual Suspension.** Automotive Repair Dealer Registration Number ARD 226429,
15 Smog Check, Test Only, Station License Number TC 226429 issued to Respondent Robert
16 Ayrapetyan, as owner of Smog Boy Test Only, and Smog Check Inspector (EO) License No.
17 140053 and Smog Check Repair Technician (EI) License No. 140053 issued to Respondent
18 Robert Ayrapetyan are each suspended for 5 (five) days from the effective date of the Decision.

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

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

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

1 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
2 any financial interest which any partners, officers, or owners of the Respondent facility may have
3 in any other business required to be registered pursuant to Section 9884.6 of the Business and
4 Professions Code.

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

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

11 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
12 either Respondent has failed to comply with the terms and conditions of probation, the
13 Department may, after giving notice and opportunity to be heard suspend or revoke the license.

14 9. **Training Course.** Within one hundred eighty (180) days of the effective date of the
15 decision, Respondent Robert Ayrapetyan shall attend and successfully complete a Bureau
16 Certified Licensed Inspector Training Course (Level 2), and submit proof of successful
17 completion to the Bureau. If proof of completion of the course is not furnished to the Bureau
18 within the 180-day period, Respondent's Smog Check Inspector License and Smog Check Repair
19 Technician License shall be immediately suspended until such proof is received.

20 10. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery in the
21 amount \$9,829.14. The costs shall be payable in twenty four (24) equal installments with the
22 final payment due twelve (12) months before the termination of probation. Respondents shall be
23 jointly and severally responsible for full cost recovery. Failure to complete payment of cost
24 recovery within the 24-month time frame shall constitute a violation of probation which may
25 subject Respondents' registration and licenses to outright revocation; however, the Director or the
26 Director's Bureau of Automotive Repair designee may elect to continue probation until such time
27 as reimbursement of the entire cost recovery amount has been made to the Bureau.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

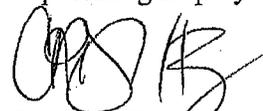
ENDORSEMENT

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

Dated: 11/27/2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



CRISTINA FELIX
Deputy Attorney General
Attorneys for Complainant

LA2012506703
51404685.doc

Exhibit A

Accusation No. 79/13-35

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 79/13-35

12 **SMOG BOY TEST ONLY**
13 **ROBERT AYRAPETYAN, OWNER**
14 **3601 Foothill Blvd**
La Crescenta, CA 91214

FIRST AMENDED ACCUSATION

(Smog Check)

15 **Automotive Repair Dealer Reg. No. ARD 226429**
16 **Smog Check, Test Only, Station License No.**
TC 226429,

17 **ROBERT AYRAPETYAN**
18 **2101 Conchita St.**
Glendale, CA 91208

19 **Smog Check Inspector License No. EO 140053,**
20 **Smog Check Repair Technician License No. EI**
21 **No. 140053 (redesignated from Advanced**
22 **Emission Specialist Technician License No. EA**
140053)

23 Respondents.

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Complainant alleges:

PARTIES/LICENSE INFORMATION

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

Smog Boy Test Only; Robert Ayrapetyan, Owner

2. In or about 2003, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 226429 ("registration") to Robert Ayrapetyan ("Respondent Ayrapetyan"), owner of Smog Boy Test Only. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2014, unless renewed.

3. On or about May 5, 2003, the Director issued Smog Check, Test Only, Station License Number TC 226429 ("smog check station license") to Respondent Ayrapetyan. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2014, unless renewed.

Robert Ayrapetyan

4. In or about 1998, the Director issued Advanced Emission Specialist Technician License Number EA 140053 ("technician license") to Respondent Ayrapetyan. Respondent's technician license was in full force and effect at all times relevant to the charges brought herein. On August 7, 2012, this license, upon renewal, was redesignated to Smog Check Inspector (EO) License No. 140053 and Smog Check Repair Technician (EI) License No. 140053¹ and these licenses will expire on July 31, 2014.

///
///
///

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

1 JURISDICTION

2 5. Business and Professions Code section 9884.7 provides that the Director may revoke
3 an automotive repair dealer registration.

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

8 7. Health and Safety Code section 44002 provides, in pertinent part, that the Director
9 has all the powers and authority granted under the Automotive Repair Act for enforcing the
10 Motor Vehicle Inspection Program.

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

16 STATUTORY PROVISIONS

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

21 10. Business and Professions Code section 9884.7 states, in pertinent part:

22 (a) The director, where the automotive repair dealer cannot show there
23 was a bona fide error, may deny, suspend, revoke, or place on probation the
24 registration of an automotive repair dealer for any of the following acts or omissions
25 related to the conduct of the business of the automotive repair dealer, which are done
26 by the automotive repair dealer or any automotive technician, employee, partner,
27 officer, or member of the automotive repair dealer.

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

1 (4) Any other conduct that constitutes fraud.

2

3 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
4 place on probation the registration for all places of business operated in this state by
5 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
6 engaged in a course of repeated and willful violations of this chapter, or regulations
7 adopted pursuant to it.

8 11. Business and Professions Code section 22, subdivision (a), states:

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

13 12. Business and Professions Code section 477, subdivision (b), states, in pertinent part,
14 that a "license" includes "registration" and "certificate."

15 13. Health & Safety Code section 44072.2 states, in pertinent part:

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

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

22

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

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

27 14. Health & Safety Code section 44072.8 states that when a license has been revoked or
28 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.

COST RECOVERY

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

1 b. On or about January 29, 2010, the Bureau issued Citation No. C2010-0764 against
2 Respondent, in his capacity as owner of Smog Boy Test Only, for violations of Health & Safety
3 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
4 control devices according to procedures prescribed by the department); and Regulation 3340.35,
5 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On
6 or about January 6, 2010, Respondent had issued a certificate of compliance to a Bureau
7 undercover vehicle with a missing AIR System. The Bureau assessed civil penalties totaling
8 \$500 against Respondent for the violations. Respondent paid the fine on March 22, 2010.

9 c. On or about September 15, 2011, the Bureau issued Citation No. C2012-0228 against
10 Respondent, in his capacity as owner of Smog Boy Test Only, for violating Health & Safety Code
11 section 44012, subdivision (f) (failure to determine that emission control devices and systems
12 required by State and Federal law are installed and functioning correctly in accordance with test
13 procedures). On or about August 4, 2011, Respondent had issued a certificate of compliance to a
14 Bureau undercover vehicle with the ignition timing adjusted beyond specifications. The Bureau
15 assessed a civil penalty of \$1,500 against Respondent for the violation. Respondent paid the fine
16 on February 6, 2012.

17 d. On or about February 14, 2008, the Bureau issued Citation No. M08-0682 against
18 Respondent's technician license for violations of Health & Safety Code section 44032 (qualified
19 technicians shall perform tests of emission control systems and devices in accordance with Health
20 & Safety Code section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians
21 shall inspect, test and repair vehicles in accordance with Health & Safety Code sections 44012
22 and 44035 and Regulation 3340.42). On or about February 6, 2008, Respondent had issued a
23 certificate of compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond
24 specifications. Respondent was directed to complete an 8 hour training course and to submit
25 proof of completion to the Bureau within 30 days from receipt of the citation. Respondent
26 completed the training on April 8, 2008.

27 ///

28

1 e. On or about January 29, 2010, the Bureau issued Citation No. M2010-0765 against
2 Respondent's technician license for violations of Health & Safety Code section 44032 (qualified
3 technicians shall perform tests of emission control systems and devices in accordance with Health
4 & Safety Code section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians
5 shall inspect, test and repair vehicles in accordance with Health & Safety Code sections 44012
6 and 44035 and Regulation 3340.42). On or about January 6, 2010, Respondent had issued a
7 certificate of compliance to a Bureau undercover vehicle with a missing AIR System.
8 Respondent was directed to complete an 8 hour training course and to submit proof of completion
9 to the Bureau within 30 days from receipt of the citation. Respondent completed the training on
10 March 16, 2010.

11 f. On or about September 15, 2011, the Bureau issued Citation No. M2012-0229 against
12 Respondent's technician license for violating Health & Safety Code section 44032 (qualified
13 technicians shall perform tests of emission control systems and devices in accordance with Health
14 & Safety Code section 44012). On or about August 4, 2011, Respondent had issued a certificate
15 of compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond
16 specifications. Respondent was directed to complete a 16 hour training course and to submit
17 proof of completion to the Bureau within 30 days from receipt of the citation. Respondent
18 completed the training on February 28, 2012.

19 **OTHER MATTERS**

20 24. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
21 Director may suspend, revoke or place on probation the registration for all places of business
22 operated in this state by Respondent Robert Ayrapetyan, owner of Smog Boy Test Only, upon a
23 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the
24 laws and regulations pertaining to an automotive repair dealer.

25 ///

26 ///

27 ///

28

