

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 EARL R. PLOWMAN
Deputy Attorney General
4 State Bar No. 54339
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
DIRECTOR OF 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. 79/09-40

12 **QUICK SMOG; GREG ASLANYAN,**
13 **SOLE OWNER**

DEFAULT DECISION AND ORDER

14 27266 Camp Plenty Road, #B
Canyon Country, CA 91351

[Gov. Code, §11520]

15 Automotive Repair Dealer Reg. No. ARD
244914
16 Smog Check, Test Only, Station License
No. TC 244914

17
18 Respondent.
19

20 FINDINGS OF FACT

21 1. On or about November 4, 2008, Complainant Sherry Mehl, in her official capacity as
22 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
23 No. 79/09-40 against Quick Smog; Greg Aslanyan, Sole Owner (Respondent) before the Director
24 of the Department of Consumer Affairs.

25 2. On or about October 3, 2006, the Bureau of Automotive Repair (Bureau) issued
26 Automotive Repair Dealer Registration No. 244914 to Respondent Greg Aslanyan. The
27 Automotive Repair Dealer Registration issued to Respondent was in full force and effect at all
28 times relevant to the charges brought herein and expired on April 30, 2009 following

1 Respondent's failure to renew it.

2 3. On or about October 12, 2006, the Bureau of Automotive Repair issued Smog Check
3 Test Only Station License No.TC 244914 to Respondent Greg Aslanyan. The Smog Check Test
4 Only Station License was in full force and effect at all times relevant to the charges brought
5 herein and expired on April 30, 2009, following Respondent's failure to renew it.

6 4. On or about May 13, 2009, Rebeca Garcia, an employee of the Department of Justice,
7 served by Certified and First Class Mail a copy of the Accusation No. 79/09-40, Statement to
8 Respondent, Notice of Defense forms, a Request for Discovery, and copies of Government Code
9 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Bureau, which
10 was and is:

11 27266 Camp Plenty Road #B
12 Canyon Country, CA 91351.

13 A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

14 5. Service of the Accusation was effective as a matter of law under the provisions of
15 Business & Professions Code section 124.

16 6. On or about May 16, 2009 Respondent Greg Aslanyan, or someone acting on his
17 behalf at his address of record, signed a receipt for certified mail which acknowledged that the
18 pleadings and notices set forth in paragraph 4(supra) were received. A true and accurate copy of
19 said receipt it contained within Exhibit A.

20 7. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
22 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
23 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
24 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

25 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
26 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
27 79/09-40.

28 //

1 9. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
3 agency may take action based upon the respondent's express admissions or upon other evidence
4 and affidavits may be used as evidence without any notice to respondent.

5 10. Pursuant to its authority under Government Code section 11520, the Director finds
6 Respondent is in default. The Director will take action without further hearing and, based on the
7 evidence on file herein, finds that the allegations in Accusation No. 79/09-40 are true.

8 11. The total cost for investigation and enforcement in connection with the Accusation
9 are \$9,701.23 as of June 15, 2009.

10 DETERMINATION OF ISSUES

11 1. Based on the foregoing findings of fact, Respondent Quick Smog; Greg Aslanyan,
12 Sole Owner has subjected his Automotive Repair Dealer Registration No.ARD244914 to
13 discipline by the Director.

14 2. Based on the foregoing findings of fact, Respondent Quick Smog; Greg Aslanyan,
15 Sole Owner has also subjected his Smog Check, Test Only, Station License Number TC 2449144
16 to discipline by the Director.

17 3. A copy of the Accusation is attached.

18 4. The agency has jurisdiction to adjudicate this case by default.

19 5. The Director of the Department of Consumer Affairs is authorized to revoke
20 Respondent's Automotive Repair Dealer Registration and his Smog Check Test Only Station
21 License based upon the following violations alleged in the Accusation:

22 a. Respondent's automotive repair dealer registration is subject to disciplinary action
23 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or
24 authorized a statement which he knew or in the exercise of reasonable care should have known to
25 be untrue or misleading

26 b. Respondent's automotive repair dealer registration is subject to disciplinary action
27 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed
28 an act which constitutes fraud.

1 c. Respondent's automotive repair dealer registration is subject to disciplinary action
2 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to
3 comply with California Code of Regulations, title 16, section 3356, subdivision (a), in a material
4 respect.

5 d. Respondent's smog check station license is subject to disciplinary action pursuant to
6 Health & Safety Code. Code section 44072.2, subdivision (a), in that Respondent failed to
7 comply with sections 44012 and 44015 of that Code.

8 e. Respondent's smog check station license is subject to disciplinary action pursuant to
9 Health & Safe. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
10 Section 3340.24, subdivision (c) Section 3340.35, subdivision (c), and Section 3340.42 of
11 California Code of Regulations, title 16.

12 f. Respondent's smog check station license is subject to disciplinary action pursuant to
13 Health & Safety Code. Code section 44072.2, subdivision (d), in that Respondent committed a
14 dishonest, fraudulent, or deceitful act whereby another is injured.

15 g. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
16 Director may refuse to validate, or may invalidate temporarily or permanently, the
17 registrations for all places of business operated in this state by Respondent Greg Aslanyan, sole
18 owner of Quick Smog, upon a finding that said Respondent has, or is, engaged in a course of
19 repeated and willful violations of the laws and regulations pertaining to an automotive repair
20 dealer.

21 h. Pursuant to Health & Safety Code. Code section 44072.8, if Smog Check, Test Only,
22 Station License Number TC 244914, issued to Respondent Greg Aslanyan, sole owner of Quick
23 Smog, is revoked or suspended, any additional license issued under this chapter in the name of
24 said licensee may be likewise revoked or suspended by the Director of the Department of
25 Consumer Affairs.

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

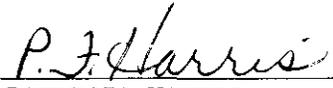
ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD244914, and Smog Check, Test Only, Station License Number TC 244914, both of which were heretofore issued to Respondent Quick Smog; Greg Aslanyan Sole Owner, are revoked separately and severely for each cause of action applicable to each license, and for all of them.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on 9-10-09.

It is so ORDERED August 4, 2009



PATRICIA HARRIS
Acting Chief Deputy Director
Department of Consumer Affairs,
Bureau of Automotive Repair
State of California

60425793.DOC
DOJ docket number: LA2008900433

Attachment:

Exhibit A: Accusation No.79/09-40

EXHIBIT "A"
ACCUSATION NO. 79/09-40

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 GREGORY J. SALUTE, State Bar No. 164015
Supervising Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2520
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7
8

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

12 In the Matter of the Accusation Against:

Case No. 79/09-40

13 QUICK SMOG
14 GREG ASLANYAN, OWNER
27266 Camp Plenty Road, #B
Canyon Country, CA 91351

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

15 Automotive Repair Dealer Reg. No. ARD 244914
16 Smog Check, Test Only, Station License
17 No. TC 244914

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 **Automotive Repair Dealer Registration No. ARD 244914**

25 2. On or about October 3, 2006, the Director of Consumer Affairs
26 ("Director") issued Automotive Repair Dealer Registration Number ARD 244914 to Greg
27 Aslanyan ("Respondent"), owner of Quick Smog. Respondent's automotive repair dealer

28 ///

1 registration was in full force and effect at all times relevant to the charges brought herein and will
2 expire on April 30, 2009, unless renewed.

3 **Smog Check, Test Only, Station License No. TC 244914**

4 3. On or about October 12, 2006, the Director issued Smog Check, Test
5 Only, Station License Number TC 244914 to Respondent. Respondent's smog check station
6 license was in full force and effect at all times relevant to the charges brought herein and will
7 expire on April 30, 2009, unless renewed.

8 **JURISDICTION**

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

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

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

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

22 **STATUTORY PROVISIONS**

23 8. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

///

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 (4) Any other conduct which constitutes fraud.

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

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

14 9. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board"
15 includes "bureau," "commission," "committee," "department," "division," "examining
16 committee," "program," and "agency." "License" includes certificate, registration or other
17 means to engage in a business or profession regulated by the Bus. & Prof. Code.

18 10. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

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

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

11. 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.

1 Cost Recovery

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

6 UNDERCOVER OPERATION: 2000 CHRYSLER CIRRUS

7 13. On June 19, 2008, an undercover operator with the Bureau, using the alias
8 "Brian Reyes" (hereinafter "operator"), took the Bureau's 2000 Chrysler Cirrus to Respondent's
9 facility and requested a smog inspection. The positive crankcase ventilation ("PCV") system was
10 removed from the Bureau-documented vehicle. The operator signed and received a copy of a
11 work order/estimate for the inspection. After the inspection was completed, the operator paid the
12 facility \$40 and was given copies of Invoice #10746 and a vehicle inspection report. That same
13 day, electronic smog Certificate of Compliance #VR344020C was issued for the vehicle.

14 FIRST CAUSE FOR DISCIPLINE

15 (Untrue or Misleading Statements)

16 14. Respondent's automotive repair dealer registration is subject to
17 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
18 Respondent made or authorized a statement which he knew or in the exercise of reasonable care
19 should have known to be untrue or misleading, as follows: Respondent certified under penalty of
20 perjury on the vehicle inspection report that the Bureau's 2000 Chrysler Cirrus passed the
21 inspection and was in compliance with applicable laws and regulations. In fact, the PCV system
22 was missing and as such, the vehicle would not pass the inspection required by Health & Saf.
23 Code section 44012.

24 SECOND CAUSE FOR DISCIPLINE

25 (Fraud)

26 15. Respondent's automotive repair dealer registration is subject to
27 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
28 Respondent committed an act which constitutes fraud. Respondent issued an electronic smog

1 certificate of compliance for the Bureau's 2000 Chrysler Cirrus without performing a bona fide
2 inspection of the emission control devices and systems on the vehicle, thereby depriving the
3 People of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violations of Regulations)**

7 16. Respondent's automotive repair dealer registration is subject to
8 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
9 Respondent failed to comply with California Code of Regulations, title 16, section 3356,
10 subdivision (a), in a material respect as follows: Respondent failed to show on Invoice
11 #10746 his correct business name as registered with the Bureau in that Respondent showed his
12 business name as Quick Smog Test Only Center.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 17. Respondent's smog check station license is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
17 comply with the following sections of that Code:

- 18 a. **Section 44012:** Respondent failed to perform the emission control tests
19 on the Bureau's 2000 Chrysler Cirrus in accordance with procedures
20 prescribed by the department.
- 21 b. **Section 44015:** Respondent issued an electronic smog certificate of
22 compliance for the Bureau's 2000 Chrysler Cirrus without properly testing
23 and inspecting the vehicle to determine if it was in compliance with
24 Health & Saf. Code section 44012.

25 ///

26 ///

27 ///

28 ///

1 FIFTH CAUSE FOR DISCIPLINE

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

4 18. Respondent's smog check station license is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
6 comply with the following sections of California Code of Regulations, title 16:

- 7 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
8 issued an electronic smog certificate of compliance for the Bureau's
9 2000 Chrysler Cirrus.
- 10 b. Section 3340.35, subdivision (c): Respondent issued an electronic smog
11 certificate of compliance for the Bureau's 2000 Chrysler Cirrus even
12 though the vehicle had not been inspected in accordance with section
13 3340.42.
- 14 c. Section 3340.42: Respondent failed to conduct the required smog tests on
15 the Bureau's 2000 Chrysler Cirrus in accordance with the Bureau's
16 specifications.

17 SIXTH CAUSE FOR DISCIPLINE

18 (Dishonesty, Fraud or Deceit)

19 19. Respondent's smog check station license is subject to disciplinary action
20 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
21 dishonest, fraudulent, or deceitful act whereby another is injured. Respondent issued an
22 electronic smog certificate of compliance for the Bureau's 2000 Chrysler Cirrus without
23 performing a bona fide inspection of the emission control devices and systems on the vehicle,
24 thereby depriving the People of the State of California of the protection afforded by the Motor
25 Vehicle Inspection Program.

26 ///

27 ///

28 ///

1 DISCIPLINE CONSIDERATIONS

2 20. To determine the degree of discipline, if any, to be imposed on
3 Respondent, Complainant alleges as follows:

4 a. On or about September 21, 2007, the Bureau issued Citation No.
5 C08-0255 against Respondent for violations of Health & Saf. Code section 44012, subdivision
6 (f) (failure to determine that emission control devices and systems required by State and Federal
7 law are installed and functioning correctly in accordance with test procedures) and California
8 Code of Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a
9 certificate of compliance to a vehicle that was improperly tested). Respondent had issued a
10 certificate of compliance to a Bureau undercover vehicle with the ignition timing adjusted
11 beyond manufacturer's specifications. The Bureau assessed civil penalties totaling \$500 against
12 Respondent for the violations. Respondent complied with the citation on or about December 19,
13 2007.

14 b. On or about January 25, 2008, the Bureau issued Citation No. C08-0643
15 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
16 determine that emission control devices and systems required by State and Federal law are
17 installed and functioning correctly in accordance with test procedures) and Regulation 3340.35,
18 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
19 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with the
20 ignition timing adjusted beyond manufacturer's specifications. The Bureau assessed civil
21 penalties totaling \$1,000 against Respondent for the violations. Respondent complied with the
22 citation on or about March 27, 2008.

23 c. On or about May 2, 2008, the Bureau issued Citation No. C08-0969
24 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
25 perform a visual/functional check of emission control devices according to procedures prescribed
26 by the department) and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
27 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
28 Bureau undercover vehicle with a missing air injection system. The Bureau assessed civil

1 penalties totaling \$2,000 against Respondent for the violations. Respondent complied with the
2 citation on or about June 16, 2008.

3 OTHER MATTERS

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

9 22. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test
10 Only, Station License Number TC 244914, issued to Respondent Greg Aslanyan, owner of Quick
11 Smog, is revoked or suspended, any additional license issued under this chapter in the name of
12 said licensee may be likewise revoked or suspended by the director.

13 PRAAYER

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

16 1. Temporarily or permanently invalidating Automotive Repair Dealer
17 Registration Number ARD 244914, issued to Greg Aslanyan, owner of Quick Smog;

18 2. Temporarily or permanently invalidating any other automotive repair
19 dealer registration issued to Greg Aslanyan;

20 3. Revoking or suspending Smog Check, Test Only, Station License Number
21 TC 244914, issued to Greg Aslanyan, owner of Quick Smog;

22 4. Revoking or suspending any additional license issued under Chapter 5 of
23 the Health and Safety Code in the name of Greg Aslanyan;

24 5. Ordering Respondent Greg Aslanyan, owner of Quick Smog, to pay the
25 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
26 case, pursuant to Business and Professions Code section 125.3;

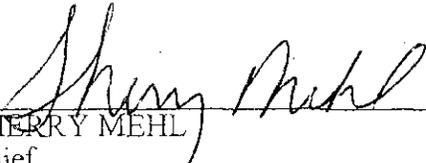
27 ///

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

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

DATED: 11-4-08



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California

Complainant