

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

In the Matter of the Accusation Against:

INNO SMOG, MARIO B. ESDRELON, Owner
5505 Stevenson Blvd.
Fremont, California 94538

Automotive Repair Dealer Registration
No. ARD 247287

Smog Check Test Only Station
No. TC 247287

Advanced Emission Specialist Technician
License No. EA 151994

Respondent.

Case No. 79/11-23

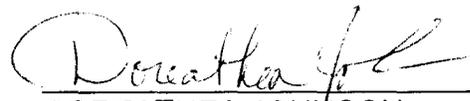
OAH No. 2010120383

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 4-11-11.

DATED: March 7, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
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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**

11 In the Matter of the Accusation Against:

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13 **OWNER**
14 **5505 Stevenson Blvd.**
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15 **Automotive Repair Dealer Registration**
No. ARD247287

16 **Smog Check Test Only Station**
17 **No. TC247287**

18 **Advanced Emission Specialist Technician**
License No. EA151994

19 Respondent.

Case No. 79/11-23

OAH No. 2010120383

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
25 brought this action solely in her official capacity and is represented in this matter by Kamala D.
26 Harris, Attorney General of the State of California, by Shana A. Bagley, Deputy Attorney
27 General.
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1 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
2 between the parties, and the Director shall not be disqualified from further action by having
3 considered this matter.

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

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

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

16 **DISCIPLINARY ORDER**

17 **A. Automotive Repair Dealer Registration No. ARD247287 and Smog Check Test**
18 **Only Station License No. TC247287:**

19 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD247287
20 and Smog Check Test Only Station License No. TC247287 issued to Respondent Inno Smog,
21 Mario B. Esdreton, Owner are revoked. However, the revocations are stayed and Respondent is
22 placed on probation for five (5) years on the following terms and conditions.

23 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD247287 and
24 Smog Check Test Only Station License No. TC247287 issued to Respondent are suspended for
25 ten (10) consecutive days, beginning on the effect date of the Decision.

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

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

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

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

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

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

19 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
20 Respondent has failed to comply with the terms and conditions of probation, the Department may,
21 after giving notice and opportunity to be heard, temporarily or permanently invalidate the
22 automotive repair dealer registration and suspend or revoke the smog station license.

23 9. **Cost Recovery.** Respondent shall pay to the Bureau, pursuant to Business and
24 Professions Code section 125.3, the costs of investigation and enforcement in this matter in the
25 amount of \$5,000.00. Respondent will agree to pay equal monthly payments with first payment
26 due within 30 days of the effective date of the decision and monthly thereafter, paid in full six
27 months prior to the end of probation. Failure to comply with this payment schedule within this
28 time frame shall constitute a violation of probation which may subject Respondent's licenses and

1 registration to outright revocation; however, the Director or the Director's Bureau of Automotive
2 Repair designee may elect to continue probation until such time as reimbursement of the entire
3 cost recovery amount has been made to the Bureau.

4 **B. Advanced Emission Specialist Technician License No. EA151994:**

5 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No.
6 EA151994 issued to Respondent Mario B. Esdrelon is revoked. However, the revocation is
7 stayed and Respondent Mario B. Esdrelon is placed on probation for three (3) years on the
8 following terms and conditions.

9 10. **Obey All Laws.** Comply with all statutes, regulations and rules governing
10 automotive inspections, estimates and repairs.

11 11. **Reporting.** Respondent Mario B. Esdrelon or Respondent's authorized representative
12 must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a
13 schedule set by the Bureau, but no more frequently than each quarter, on the methods used and
14 success achieved in maintaining compliance with the terms and conditions of probation.

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

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

21 14. **Jurisdiction.** If an accusation is filed against Respondent Mario B. Esdrelon during
22 the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over
23 this matter until the final decision on the accusation, and the period of probation shall be extended
24 until such decision.

25 15. **Violation of Probation.** Should the Director of Consumer Affairs determine that
26 Respondent Mario B. Esdrelon has failed to comply with the terms and conditions of probation,
27 the Department may, after giving notice and opportunity to be heard, suspend or revoke the
28 technician license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, William D. Ferreira. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Test Only Station License, and Advanced Emission Specialist Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

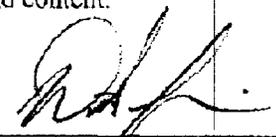
DATED: 2-11-11



INNO SMOG, MARIO B. ESDRELON, OWNER
Respondents

I have read and fully discussed with Respondents Inno Smog and Mario B. Esdreton the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/11/11



WILLIAM D. FERREIRA, ESQ.
Attorney for Respondents

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ENDORSEMENT

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

Dated: February 10, 2011

Respectfully submitted,

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

~~SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant~~

SF2010400437/ Stipulation.rtf

Exhibit "A"

Accusation No. 79/11-23

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
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13 **INNO SMOG**
14 **5505 Stevenson Blvd.**
15 **Fremont, California 94538**
16 **MARIO B. ESDRELON, OWNER**
17 **Automotive Repair Dealer Registration**
18 **No. ARD 247287**
19 **Smog Check Test Only Station License**
20 **No. TC 247287**

ACCUSATION

SMOG CHECK

21 **MARIO BLANCO ESDRELON**
22 **1396 Lafayette Street**
23 **Santa Clara, CA 95050**
24 **Advanced Emission Specialist Technician**
25 **License No. EA 151994**

Respondent.

26 Complainant alleges:

PARTIES

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

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1 This violation, or action by the director, shall not affect in any manner the right of the
2 automotive repair dealer to operate his or her other places of business.

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 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
9 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
10 proceeding against an automotive repair dealer or to render a decision invalidating a registration
11 temporarily or permanently.

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

16 8. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
17 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
18 the Motor Vehicle Inspection Program.

19 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

1 11. Section 44072.8 of the Health and Safety Code states:

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

5 **COST RECOVERY**

6 12. Code section 125.3 provides, in pertinent part, that a Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **UNDERCOVER OPERATION – NOVEMBER 9, 2009**

11 13. On or about November 9, 2009, a Bureau undercover operator ("operator") drove a
12 Bureau-documented 1989 Ford F-Super Duty to Respondent's facility and requested a smog
13 inspection. The vehicle could not pass the functional portion of a smog inspection because the
14 vehicle's exhaust gas recirculation (EGR) system was non-functional. The operator filled out and
15 signed a work order; however, the operator was not provided with a copy of the document.
16 Faramarz Aflatooni, a licensed technician, performed the smog inspection and issued electronic
17 Certificate of Compliance No. NO603021 for that vehicle even though the vehicle could not have
18 passed the functional portion of the smog inspection. The operator paid \$98 for the smog
19 inspection and received a copy of Invoice No. 014203 and the Vehicle Inspection Report
20 ("VIR").

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 14. Respondent has subjected his registration to discipline under Code section 9884.7,
24 subdivision (a)(1), in that on or about November 9, 2009, he made statements which he knew or
25 which by exercise of reasonable care he should have known were untrue or misleading when he
26 issued electronic Certificate of Compliance No. NO603021 for the 1989 Ford F-Super Duty,
27 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
28 the vehicle's EGR system was non-functional.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 17. Respondent has subjected his station license to discipline under Health and Safety
4 Code section 44072.2, subdivision (c), in that on or about November 9, 2009, regarding the 1989
5 Ford F-Super Duty, he violated sections of California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
7 electronic Certificate of Compliance No. NO603021 without performing a bona fide inspection of
8 the emission control devices and systems on that vehicle as required by Health and Safety Code
9 section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
11 Compliance No. NO603021 even though that vehicle had not been inspected in accordance with
12 section 3340.42 of that Code.

13 c. **Section 3340.42:** Respondent failed to conduct the required smog tests and
14 inspections on that vehicle in accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 18. Respondent subjected his station license to discipline under Health and Safety Code
18 section 44072.2, subdivision (d), in that on or about November 9, 2009, regarding the 1989 Ford
19 F-Super Duty, he committed acts involving dishonesty, fraud or deceit whereby another was
20 injured by issuing electronic Certificate of Compliance No. NO603021 for that vehicle without
21 performing a bona fide inspection of the emission control devices and system on the vehicle,
22 thereby depriving the People of the State of California of the protection afforded by the Motor
23 Vehicle Inspection Program.

24 **PRIOR CITATIONS**

25 19. To determine the degree of penalty, if any, to be imposed upon Respondent,
26 Complainant alleges as follows:

27 a. On July 30, 2008, the Bureau issued Citation No. C09-0111 to Respondent against his
28 registration and station licenses for violations of Health and Safety Code section 44012,

1 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
2 California Code of Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing
3 a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of
4 compliance to a Bureau vehicle with a missing air suction system reed valve assembly. The
5 Bureau assessed a civil penalty of \$500. Respondent complied with this citation on September 3,
6 2008.

7 b. On November 18, 2008, the Bureau issued Citation No. C09-0603 to Respondent
8 against his registration and station licenses for violations of Health and Safety Code section
9 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)
10 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
11 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a
12 missing air injection pump with its related components. The Bureau assessed a civil penalty of
13 \$1,000. Respondent complied with this citation on January 9, 2009.

14 c. On March 5, 2009, the Bureau issued Citation No. C09-1046 to Respondent against
15 his registration and station licenses for violations of Health and Safety Code section 44012,
16 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
17 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
18 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the
19 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil
20 penalty of \$2,000. Respondent appealed this citation on April 15, 2009. Respondent complied
21 with this citation on October 19, 2009.

22 d. On or about July 30, 2008, the Bureau issued Citation No. M09-0112 against
23 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to
24 perform a visual/functional check of emission control devices according to procedures prescribed
25 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance
26 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau
27 undercover vehicle with a missing air suction system reed valve assembly. The Bureau directed
28

1 Respondent to complete an 8-hour training course. Respondent complied with this citation on
2 September 10, 2008.

3 e. On or about November 18, 2008, the Bureau issued Citation No. M09-0604 against
4 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to
5 perform a visual/functional check of emission control devices according to procedures prescribed
6 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance
7 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau
8 undercover vehicle with a missing air injection pump and its related components. The Bureau
9 directed Respondent to complete a 16-hour training course. Respondent complied with this
10 citation on January 29, 2009.

11 f. On or about March 5, 2009, the Bureau issued Citation No. M09-1047 against
12 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to
13 perform a visual/functional check of emission control devices according to procedures prescribed
14 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance
15 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau
16 undercover vehicle with the ignition timing adjusted beyond the manufacturer's specifications.
17 The Bureau directed Respondent to complete a clean air car course. Respondent appealed this
18 citation on April 15, 2009. Respondent complied with this citation on January 14, 2010.

19 **OTHER MATTERS**

20 20. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
21 or may invalidate temporarily or permanently, the registrations for all places of business operated
22 in this state by Mario B. Esdreton doing business as Inno Smog upon a finding that he has, or is,
23 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
24 automotive repair dealer.

25 21. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
26 License Number TC 247287, issued to Mario B. Esdreton doing business as Inno Smog, is
27 revoked or suspended, any additional license issued under this chapter in the name of said
28

1 licensee, including but not limited to Advanced Emission Specialist Technician License Number
2 EA 151994, may be likewise revoked or suspended by the director.

3 PRAYER

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

6 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration
7 Number ARD 247287, issued to Mario B. Esdreton doing business as Inno Smog;

8 2. Revoking, suspending, or placing on probation any other automotive repair dealer
9 registration issued in the name of Mario B. Esdreton;

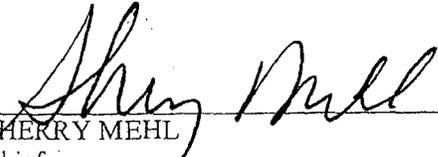
10 3. Revoking or suspending Smog Check Test Only Station Number TC 247287, issued
11 to Mario B. Esdreton doing business as Inno Smog;

12 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
13 and Safety Code in the name of Mario B. Esdreton, including but not limited to Advanced
14 Emission Specialist Technician License Number EA 151994;

15 5. Ordering Mario B. Esdreton to pay the Bureau of Automotive Repair the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
17 Code section 125.3; and,

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

19
20
21 DATED: 9/27/10


22 SHERRY MEHL
23 Chief
24 Bureau of Automotive Repair
25 Department of Consumer Affairs
26 State of California
27 Complainant

28 SF2010400437
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