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

In the Matter of the Accusation and Petition to Revoke Probation Against: **CARMART** **6661 Pentz Road** **Paradise, California 95969** **EARL GENE ADAMS, JR., SOLE OWNER** **Automotive Dealer Registration No. ARD249532** **Mailing Address** **1443 Bel Air Drive** **Paradise, California 95969** Respondent.	Case No. 79/10-24 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 15, 2009, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation and Petition to Revoke Probation No. 79/10-24 against Earl Gene Adams, Jr. doing business as Carmart (Respondent) before the Director of Consumer Affairs.

2. On or about April 11, 2007, the Bureau of Automotive Repair (Bureau) issued Automotive Dealer Registration No. ARD 249532 to Respondent. The Automotive Dealer Registration will expire on February 8, 2010, unless renewed.

///

3. On or about October 30, 2009, Donna Parker, an employee of the Department of Justice, served by Certified Mail and first class mail a copy of Accusation and Petition to revoke Probation No. 79/10-24, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Bureau and his mailing address. Respondent's mailing address was and now is 1443 Bel Air Drive, Paradise, California 95969. A copy of the Accusation and Petition to Revoke Probation is attached as exhibit A, and is incorporated herein by reference.

4. Service of the Accusation and Petition to Revoke Probation was effective as a matter of law under the provisions of Business & Professions Code section 124.

5. On or about November 2, 2009, Respondent signed a Return Receipt acknowledging his receipt of the aforementioned documents.

6. Business and Professions Code section 118 states, in pertinent part:

> (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

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

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

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation and Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of Accusation and Petition to Revoke Probation No. 79/10-24.

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

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

10. Pursuant to its authority under Government Code section 11520, the Director finds Respondent is in default. The Director will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation and the Petition to Revoke Probation No. 79/10-24 are true.

11. The total cost for investigation and enforcement in connection with the Accusation and Petition to Revoke Probation are $1,775.75 as of November 24, 2009.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Earl Gene Adams, Jr. doing business as Carmart has subjected his Automotive Dealer Registration No. ARD 249532 to discipline.

2. A copy of the Accusation and Petition to Revoke Probation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive Car Dealer Registration based upon the following violations alleged in the Accusation and Petition to Revoke Probation:

a. Accusation

(i) On four separate occasions, making false or misleading statements in violation of Business and Professions Code section 9884.7(a)(1) by representing to a BAR undercover agent that he could and would fix a motor vehicle so that it would pass a smog inspection when, in fact, Respondent had no license to perform such service.

(ii) On three separate occasions, failing to provide a written cost estimate for service in violation of Business and Professions Code section 9884.9(a) to a BAR undercover agent

b. Petition to Revoke Probation: Violation of Term 1 of Respondent's probation under Stipulated Settlement and Disciplinary Order No. 79/09-12 by virtue of the acts identified above.

ORDER

IT IS SO ORDERED that Automotive Dealer Registration No. ARD 249532, heretofore issued to Respondent Earl Gene Adams, Jr., doing business as Carmart is revoked.

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 January 15, 2010.

It is so ORDERED December 9, 2009

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

default decision_LIC.rtf
DOJ docket number:SA2009308108

Attachment:

Exhibit A: Accusation and Petition to Revoke Probation No.79/10-24

Exhibit A

Accusation and Petition to Revoke Probation No. 79/10-24

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

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **CARMART** **6661 Pentz Road** **Paradise, California 95969** **EARL GENE ADAMS, JR., SOLE OWNER** **Automotive Dealer Registration No. ARD 249532** **Mailing Address** **1443 Bel Air Drive** **Paradise, California 95969** Respondent.	79/10-24 Case No **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Sherry Mehl ("Complainant") brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

Automotive Repair Dealer Registration

2. On a date uncertain in 1995, the Bureau issued Automotive Dealer Registration Number ARD 185771 to Carmart with Earl Gene Adams, Jr., and Steven Ray Lilliquist as

partners. The registration was canceled on April 11, 2007, due to the death of Steven Ray Lilliquist. On or about April 11, 2007, the Bureau issued Automotive Dealer Registration Number ARD 249532 ("registration") to Earl Gene Adams, Jr., ("Respondent"), doing business as Carmart. The registration will expire on February 28, 2010, unless renewed.

PRIOR DISCIPLINE

3. Pursuant to the Stipulated Settlement and Disciplinary Order for Accusation No. 79/07-12, attached hereto as **Exhibit "A"** and incorporated herein by reference, effective May 7, 2007, the Director of Consumer Affairs revoked Respondent's Smog Station License Number RK 185771 outright. Further, Respondent's Automotive Repair Dealer Registration Number ARD 185771 (formerly AK 185771) was revoked; however, the revocation was stayed. Further, pursuant to the disciplinary order, the Bureau issued ARD Number 249532 to Earl G. Adams, Jr., as the sole owner of, and doing business as, Carmart, due to the death of Steven Ray Lilliquist, his former partner in Carmart. All terms and conditions of probation for Carmart under ARD Number 185771 were transferred to Carmart under the new registration number, ARD 249532, as a condition of issuance. Further, Respondent was placed on probation for three years with terms and conditions, which included the following:

Term 1 – Obey all Laws: Respondent shall comply with all statutes, regulations, and rules governing automotive inspections, estimates and repairs.

STATUTORY PROVISIONS

4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following 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.
>
> (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.
>
> (4) Any other conduct which constitutes fraud.

(6) Failure in any material respect to comply with the provisions of this chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or regulations adopted pursuant to it.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

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

5. Code section 9884.9, subdivision (a), states:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

_____

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

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

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

COST RECOVERY

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

UNDERCOVER OPERATION NO. 1 – JUNE 11, 2008

9. On June 11, 2008, a Bureau undercover operator using the alias "Ronnie Brooks" ("operator") drove a Bureau-documented 1990 Toyota Corolla to Respondent's facility after the vehicle failed a smog inspection. The operator spoke with Respondent informing him that the vehicle failed a smog inspection on June 9, 2008, because the ignition timing was adjusted beyond the manufacturer's specifications. The operator provided Respondent with the invoice and Vehicle Information Report ("VIR") from Yolo Smog and asked Respondent if he could fix the vehicle so it would pass a smog inspection. Respondent told the operator he could adjust the ignition timing. The operator was not asked to sign any paperwork nor was he provided with any paperwork until after the work was performed. The operator paid Respondent $15 and received an invoice dated June 11, 2008.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

10. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on June 11, 2008, Respondent made statements which he knew

or which by exercise of reasonable care he should have known were untrue or misleading. Even after being told by the operator that the vehicle failed to pass the smog inspection due to the ignition timing being adjusted beyond the manufacturer's specifications, Respondent told the operator he could, and did perform the smog related repair when he was not qualified or licensed as a smog check station.

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Written Estimate)

11. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on June 11, 2008, Respondent failed to comply with Code section 9884.9, subdivision (a) by failing to provide the operator with a written estimated price for the ignition timing adjustment.

UNDERCOVER OPERATION NO. 2 – AUGUST 28, 2008

12. On August 28, 2008, a Bureau undercover operator using the alias "Curt Olinger" ("operator") drove a Bureau-documented 1995 Nissan Altima to Respondent's facility after the vehicle failed a smog inspection. The operator spoke with Respondent, informing him that the vehicle failed a smog inspection on August 28, 2008, because the "check engine light" was on. The operator provided Respondent with the invoice and VIR from Smog Busters and asked Respondent if he could fix the vehicle so it would pass a smog inspection. Respondent hooked up a scan tool to the Nissan Altima and informed the operator that the oxygen sensor was defective. Respondent told the operator that it would cost $128.58 to replace that part. The operator authorized the repair. The operator signed and received a written estimate. Following the replacement of the oxygen sensor, the operator paid Respondent $128.58 and received Invoice No. 57504.

THIRD CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

13. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on August 28, 2008, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading.

Even after being told by the operator that the vehicle failed to pass the smog inspection due to the "check engine light", Respondent told the operator that the vehicle's oxygen sensor was defective and that he could, and did perform the smog related repair when he was not qualified or licensed as a smog check station.

UNDERCOVER OPERATION NO. 3 – NOVEMBER 5, 2008

14. On November 5, 2008, a Bureau undercover operator using the alias "Michael Perez" ("operator") drove a Bureau-documented 1991 Pontiac 600 Safari to Respondent's facility after the vehicle failed a smog inspection. The operator spoke with Respondent informing him that the vehicle failed a smog inspection on November 5, 2008, because there was a problem with the exhaust gas recirculation ("EGR") system. The operator provided Respondent with the VIR from Smog Busters and asked Respondent if he could fix the vehicle so it would pass a smog inspection. Respondent looked at the VIR and then opened the hood of the vehicle. Respondent worked under the hood for approximately five minutes and then informed the operator that he could not find a problem with the EGR system. The operator was not asked to sign any paperwork nor was he provided with any paperwork.

FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

15. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on November 5, 2008, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading. Even after being told by the operator that the vehicle failed to pass the smog inspection due to a problem with the EGR system, Respondent performed a partial diagnostic procedure of the EGR system by manually opening the EGR valve, which is a smog related repair when he was not qualified or licensed as a smog check station.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Provide Written Estimate)

16. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on November 5, 2008, Respondent failed to comply with Code

section 9884.9, subdivision (a) by failing to provide the operator with a written estimated price for performing a partial diagnostic of the EGR system.

UNDERCOVER OPERATION NO. 4 – NOVEMBER 24, 2008

17. On November 24, 2008, a Bureau undercover operator using the alias "Larry Boston" ("operator") drove a Bureau-documented 1986 Oldsmobile Cutlass to Respondent's facility after the vehicle failed a smog inspection. The operator spoke with Respondent informing him that the vehicle failed a smog inspection on that date, because the ignition timing was adjusted beyond the manufacturer's specifications. The operator provided Respondent with the invoice and VIR from Smog Busters and asked Respondent if he could fix the vehicle so it would pass a smog inspection. Respondent adjusted the ignition timing. Respondent did not provide the operator with any paperwork nor did he charge the operator for the ignition timing adjustment.

SIXTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

18. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on November 24, 2008, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading. Even after being told by the operator that the vehicle failed to pass the smog inspection due to the ignition timing being adjusted beyond the manufacturer's specifications, Respondent told the operator he could adjust the ignition timing and did so when he was not qualified or licensed as a smog check station.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide Written Estimate)

19. Respondent has subjected his registration to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on November 24, 2008, Respondent failed to comply with Code section 9884.9, subdivision (a) by failing to provide the operator with a written estimated price for the ignition timing adjustment.

///

///

PETITION TO REVOKE PROBATION

20. The allegations of paragraphs 1 through 19 of the accusation above are incorporated herein by reference as though fully set forth and are realleged.

21. Grounds exist to revoke the probation and reimpose the order of revocation of Respondent's Automotive Repair Dealer Registration Number ARD 249532, as follows:

a. Respondent failed to comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs as required by Term 1 of his probation under Stipulated Settlement and Disciplinary Order Number 79/07-12, as set forth in paragraphs 9 through 19 of the accusation above.

PROBATION CONFERENCE

22. On June 20, 2007, pursuant to the terms and conditions of Respondent's probation, a probation conference was held at the Bureau's Sacramento Field Office with Respondent. The Bureau reviewed the terms and conditions of probation with Respondent, which included Respondent's understanding that as a revoked technician and smog station, he could not perform any smog related diagnosis or repairs.

OTHER MATTERS

23. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Earl Gene Adams, Jr., doing business as Carmart, upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

PRAYER

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

1. Vacating the stay and reimposing the order of revocation of Automotive Dealer Registration Number ARD 249532, issued to Earl Gene Adams, Jr., doing business as Carmart;

2. Temporarily or permanently invalidating any other registration issued to Earl Gene Adams, Jr;

3. Ordering Earl Gene Adams, Jr., to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 10/15/09

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

SA2009308108
10481175.doc

EXHIBIT A

APR 05 2007

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

In the Matter of the Accusation Against: **CARMART** EARL GENE ADAMS, JR., Partner STEVEN RAY LILLIQUIST, Parnter 6661 Pentz Road Paradise, CA 95969 Automotive Repair Dealer Registration No. AK 185771 Smog Check Station No. RK 185771 and **EARL GENE ADAMS, JR.** 1443 Bel Air Drive Paradise, CA 95969 Basic Area Technician License No. EB 067865 Respondent.	No. 79/07-12 OAH No. 2006120333

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 May 7, 2007.

DATED: April 2, 2007

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

ORIGINAL

EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR TAGGART
Supervising Deputy Attorney General
STERLING A. SMITH, State Bar No. 84287
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-0378
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Accusation Against: CARMART EARL GENE ADAMS, JR., Partner STEVEN RAY LILLIQUIST, Partner 6661 Pentz Road Paradise, CA 95969 Automotive Repair Dealer Registration No. AK 185771 Smog Check Station No. RK 185771, and EARL GENE ADAMS, JR. 1443 Bel Air Drive Paradise, CA 95969 Basic Area Technician No. EB 067865 Respondent.	Case No. 79/07-12 OAH No. 2006120333 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Sherry Mehl (Complainant) is the Bureau Chief of the Bureau of Automotive Repair and the successor of Dennis Kenneally, who brought this action solely in his

official capacity. Complainant is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Sterling A. Smith, Deputy Attorney General.

2. Respondents CARMART and EARL GENE ADAMS, JR. are represented in this proceeding by attorney James Berglund, Esq., whose address is 1838 Feather River Blvd. Oroville, CA 95965.

3. On or about February 21, 1995, the Director of Consumer Affairs, Bureau of Automotive Repair (hereinafter "Director") issued Automotive Repair Dealer Registration No. AK 185771 to CARMART, in which Respondent EARL GENE ADAMS as a partner with Respondent STEVEN RAY LILIQUIST.

4. On or about January 18, 1996, the Director issued Smog Check Station License No. RK 185771 to CARMART, in which Respondent EARL GENE ADAMS as a partner with Respondent STEVEN RAY LILIQUIST.

5. In or about 1995, Respondent STEVEN RAY LILLIQUIST died, causing Automotive Repair Dealer Registration No. AK 185771 and Smog Check Station License No. RK 185771 to be invalid from and after in or about 1995 by the resulting change of ownership in Respondent CARMART as described in paragraphs 18-21 below.

6. In or about 1996, the Director issued Basic Area Technician License No. EB 067865 to EARL GENE ADAMS, JR..

JURISDICTION

7. Accusation No. 79/07-12 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondents CARMART and EARL GENE ADAMS, JR. (collectively "Respondents"). The Accusation and all other statutorily required documents were properly served on Respondents on September 29, 2006. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 79/07-12 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondents have carefully read, discussed with counsel, and fully

understand the charges and allegations in Accusation No. 79/07-12. Respondents have also carefully read, discussed with counsel, and fully understand the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondents are fully aware of their 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 their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalfs; 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, and each of them, voluntarily, knowingly, and intelligently waive and gives up each and every right set forth above.

11. Respondents, and each of them, further waive all rights accorded an applicant under the California Administrative Procedure Act, including but not limited to the right to appeal any denial of Respondents' application for a new Automotive Repair Dealer Registration as set forth in paragraphs 18-21 below, and the right to an administrative hearing on said appeal.

12. Respondents, and each of them, further waive any and all rights to appeal or in any way contest cessation of their smog inspection and smog station check business at 6661 Pentz Road, Paradise, California as of February 23, 2007, whether pursuant to the Administrative Procedure Act or otherwise, as provided in paragraphs 18-21 below.

CULPABILITY

13. For the purposes of any and all matters pertaining to Respondents, and each of them, that may come before the Director, the Bureau or their respective successors, including but not limited to disciplinary matters, a petition to the Director under Government Code section 11522, a petition for interim suspension order before the Office of Administrative Hearings, a petition to revoke probation, and any application for licensure with the Director or the Bureau, Respondents CARMART and EARL GENE ADAMS, JR. admit the truth of each

and every charge and allegation made against them in Accusation No. 79/07-12.

14. Pursuant to paragraphs 18-20 below, Respondents CARMART and EARL GENE ADAMS, JR. have ceased to act or otherwise do business as a smog check station and agree to outright revocation of Smog Check Station License Number RK 185771. Respondents CARMART and EARL GENE ADAMS, JR. understand that they now have no right to conduct business as a smog check station and that upon the effective date of the decision, Smog Check Station License Number RK 185771 is revoked.

15. Respondent EARL GENE ADAMS, JR. agrees to revocation of Basic Area Technician License Number EB 067865. Respondent EARL GENE ADAMS, JR. understands that upon the effective date of the decision, he has no right to perform or otherwise act in the capacity of a Basic Area Technician in California.

16. Respondents CARMART and EARL GENE ADAMS, JR. agree that Automotive Repair Dealer Registration Number AK 185771 is invalid and that a new Automotive Repair Dealer Registration to be issued to Respondents under paragraphs 18-22 below is subject to discipline. Respondents agree to be bound by the Director of Consumer Affairs's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

17. This stipulation shall be subject to approval by the Director of Consumer Affairs (Director) or her designee. Respondents, and each of them, understand and agree that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that neither of them may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, and except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

NEW REGISTRATION APPLICATION

18. Automotive Repair Dealer Registration No. AK 185771 and Smog Check Station License No. RK 185771 issued to Respondents identify Respondent STEVEN RAY LILLIQUIST as a partner in CARMART with Respondent EARL GENE ADAMS JR.. Upon the death of Respondent STEVEN RAY LILLIQUIST, Respondents were required to apply for issuance of a new Automotive Repair Dealer Registration and a new Smog Check Station License by 16 California Code of Regulations, sections 3306(c)(1) and 3351.1(c). Notwithstanding the death of Respondent STEVEN RAY LILLIQUIST, Respondent EARL GENE ADAMS, JR. continued to operate Respondent CARMART under Automotive Repair Dealer Registration No. AK 185771 and Smog Check Station License No. RK 185771 without applying to the Director for a new Automotive Repair Dealer Registration or a new Smog Check Station License for Respondents, and without notifying the Bureau of the death of Respondent STEVEN RAY LILLIQUIST. As a result, said Registration and Smog Check Station license were and are invalid.

19. On or about February 23, 2007, Respondents agreed to cease and did cease doing business as a smog check station due to the invalidity of Smog Check Station License No. RK 185771.

20. On of about February 22, 2007, Respondents made application to the Bureau for a new Automotive Repair Dealer Registration for their current location of 6661 Pentz Road, Paradise, California 95969, to be held by Respondent EARL GENE ADAMS, JR. as sole proprietor for Respondent CARMART. The application is subject to denial based upon the pending disciplinary action in BAR Case No. 79/07-12, Respondents' failure to timely apply for a new automotive repair dealer registration, and Respondent's failure to apply for a new smog check station license upon the death of former partner STEVEN RAY LILLIQUIST.

21. As a part of this settlement and in response to Respondents' pending application, and subject to adoption of this Stipulation by the Director as its decision, a new Automotive Repair Dealer Registration will be issued to Respondents CARMART and EARL GENE ADAMS, JR. as CARMART's sole proprietor for the location at 6661 Pentz Road,

Paradise California 95969. Said Registration will be issued within thirty (30) days after the effective date of the decision, will immediately be revoked, placed on probation, and otherwise be subject to all of the provisions of the disciplinary order set forth herein.

22. Nothing in paragraphs 18-21 above shall modify or otherwise affect outright revocation of Smog Check Station License No. RK 185771 or outright revocation of Basic Area Technician License No. EB 067865 as provided in paragraphs 14 and 15 above.

OTHER MATTERS

23. Costs of investigation and enforcement of this disciplinary action (including Attorney General billing) total $14,597.19 through on or about February 21, 2007. In consideration of the above stipulations and waivers, cost recovery in this case is reduced to $6,000.00. Said cost recovery of $6,000.00 shall be paid by Respondents, and each of them, to the Bureau by twenty-four consecutive monthly installments of $250.00, commencing on the first day of the month after the effective date of the decision. Failure to pay the cost reimbursement as provided herein shall constitute a violation of probation which may subject Respondents' new Automotive Repair Dealer Registration to outright revocation; however, the Director or the Director's Bureau designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount of $6,000.00 has been made to the Bureau.

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

DISCIPLINARY ORDER

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

IT IS HEREBY ORDERED that Smog Check Station No. RK 185771 issued to Respondents CARMART and EARL GENE ADAMS, JR., and Basic Area Technician No. EB 067865 issued to Respondent EARL GENE ADAMS, JR. are revoked.

IT IS FURTHER ORDERED that Automotive Repair Dealer Registration No. AK

185771 issued to Respondents CARMART and EARL GENE ADAMS, JR., as well as the new Automotive Repair Dealer Registration set forth in paragraphs 18-21 above, are revoked. However, revocation of the new Automotive Repair Dealer Registration is stayed and Respondents are placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents shall comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

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

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

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

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

6. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondents have failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, suspend or revoke the license.

7. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery of $6,000.00 shall be paid in full by Respondents, and each of them, by paying twenty-four (24) monthly installments of $250.00 to the Bureau commencing on the first day of the month after the effective date of the decision and continuing on the first day of each month

thereafter for twenty-four months. Failure to complete payment of cost recovery as provided herein shall constitute a violation of probation which may subject Respondent's Automotive Repair Dealer Registration to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James Berglund, Esq.. I understand the stipulation and the effect it will have on my Smog Check Station License, Basic Area Technician License, my previous Automotive Repair Dealer Registration and new Automotive Repair Dealer Registration. 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: 3-6-07.

EARL GENE ADAMS, JR., SOLE PROPRIETOR of CARMART Respondents

I have read and fully discussed with Respondents CARMART and EARL GENE ADAMS, JR. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/6/07.

JAMES BERGLUND, ESQ.
Attorney for Respondents

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

submitted for consideration by the Director of Consumer Affairs.

DATED: March 20, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SA2006102455
Stipulated Settlement rev one