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

79/10-24

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No

**ACCUSATION AND PETITION
TO REVOKE PROBATION**

13 **CARMART**
14 **6661 Pentz Road**
Paradise, California 95969
15 **EARL GENE ADAMS, JR., SOLE OWNER**
Automotive Dealer Registration No.
ARD 249532

16 **Mailing Address**
17 **1443 Bel Air Drive**
18 **Paradise, California 95969**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

26 **Automotive Repair Dealer Registration**

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

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

5 PRIOR DISCIPLINE

6 3. Pursuant to the Stipulated Settlement and Disciplinary Order for Accusation No.
7 79/07-12, attached hereto as **Exhibit "A"** and incorporated herein by reference, effective May 7,
8 2007, the Director of Consumer Affairs revoked Respondent's Smog Station License Number
9 RK 185771 outright. Further, Respondent's Automotive Repair Dealer Registration Number
10 ARD 185771 (formerly AK 185771) was revoked; however, the revocation was stayed. Further,
11 pursuant to the disciplinary order, the Bureau issued ARD Number 249532 to Earl G. Adams, Jr.,
12 as the sole owner of, and doing business as, Carmart, due to the death of Steven Ray Lilliquist,
13 his former partner in Carmart. All terms and conditions of probation for Carmart under ARD
14 Number 185771 were transferred to Carmart under the new registration number, ARD 249532, as
15 a condition of issuance. Further, Respondent was placed on probation for three years with terms
16 and conditions, which included the following:

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

19 STATUTORY PROVISIONS

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

22 (a) The director, where the automotive repair dealer cannot show there
23 was a bona fide error, may refuse to validate, or may invalidate temporarily or
24 permanently, the registration of an automotive repair dealer for any of the following
25 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.

26 (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
27 by the exercise of reasonable care should be known, to be untrue or misleading.

28 (4) Any other conduct which constitutes fraud.

1 (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
2 regulations adopted pursuant to it.

3 (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
4 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.
5 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.

6 (c) Notwithstanding subdivision (b), the director may invalidate
temporarily or permanently, the registration for all places of business operated in this
7 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
8 regulations adopted pursuant to it.

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

10 (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
11 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
12 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
13 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
14 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
15 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
16 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
17 specification of the additional parts and labor and the total additional cost, and shall
do either of the following:

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

20 (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
21 customer to additional repairs, in the following language:

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

24 _____
25 (signature or initials)"

26 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
27 the requested repair.

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

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Failure to Provide Written Estimate)**

8 11. Respondent has subjected his registration to discipline pursuant to Code section
9 9884.7, subdivision (a)(6), in that on June 11, 2008, Respondent failed to comply with Code
10 section 9884.9, subdivision (a) by failing to provide the operator with a written estimated price
11 for the ignition timing adjustment.

12 **UNDERCOVER OPERATION NO. 2 – AUGUST 28, 2008**

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

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 13. Respondent has subjected his registration to discipline pursuant to Code section
27 9884.7, subdivision (a)(1), in that on August 28, 2008, Respondent made statements which he
28 knew or which by exercise of reasonable care he should have known were untrue or misleading.

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

5 **UNDERCOVER OPERATION NO. 3 – NOVEMBER 5, 2008**

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

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 15. Respondent has subjected his registration to discipline pursuant to Code section
19 9884.7, subdivision (a)(1), in that on November 5, 2008, Respondent made statements which he
20 knew or which by exercise of reasonable care he should have known were untrue or misleading.
21 Even after being told by the operator that the vehicle failed to pass the smog inspection due to a
22 problem with the EGR system, Respondent performed a partial diagnostic procedure of the EGR
23 system by manually opening the EGR valve, which is a smog related repair when he was not
24 qualified or licensed as a smog check station.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Failure to Provide Written Estimate)**

27 16. Respondent has subjected his registration to discipline pursuant to Code section
28 9884.7, subdivision (a)(6), in that on November 5, 2008, Respondent failed to comply with Code

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

3 **UNDERCOVER OPERATION NO. 4 – NOVEMBER 24, 2008**

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

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

14 18. Respondent has subjected his registration to discipline pursuant to Code section
15 9884.7, subdivision (a)(1), in that on November 24, 2008, Respondent made statements which he
16 knew or which by exercise of reasonable care he should have known were untrue or misleading.
17 Even after being told by the operator that the vehicle failed to pass the smog inspection due to the
18 ignition timing being adjusted beyond the manufacturer's specifications, Respondent told the
19 operator he could adjust the ignition timing and did so when he was not qualified or licensed as a
20 smog check station.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Provide Written Estimate)**

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

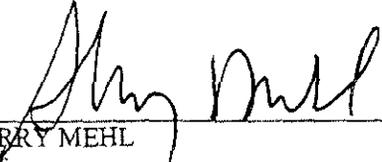
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1 3. Ordering Earl Gene Adams, Jr., to pay the Bureau of Automotive Repair the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 4. Taking such other and further action as deemed necessary and proper.
5

6
7 DATED: 10/15/09


8 SHERRY MEHL
9 Chief
10 Bureau of Automotive Repair
11 Department of Consumer Affairs
12 State of California
13 Complainant

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EXHIBIT A

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

APR 05 2007

In the Matter of the Accusation Against:)

CARMART)

EARL GENE ADAMS, JR., Partner)

STEVEN RAY LILLQUIST, 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 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

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

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 79/07-12

12 CARMART
13 EARL GENE ADAMS, JR., Partner
STEVEN RAY LILLIQUIST, Partner
14 6661 Pentz Road
Paradise, CA 95969

OAH No. 2006120333

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Automotive Repair Dealer Registration No. AK
16 185771
Smog Check Station No. RK 185771,

17 and

18 EARL GENE ADAMS, JR.
19 1443 Bel Air Drive
Paradise, CA 95969

20 Basic Area Technician No. EB 067865

21 Respondent.

22
23
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
25 above-entitled proceedings that the following matters are true:

26 PARTIES

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

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

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

7 OTHER MATTERS

8 23. Costs of investigation and enforcement of this disciplinary action
9 (including Attorney General billing) total \$14,597.19 through on or about February 21, 2007. In
10 consideration of the above stipulations and waivers, cost recovery in this case is reduced to
11 \$6,000.00. Said cost recovery of \$6,000.00 shall be paid by Respondents, and each of them, to
12 the Bureau by twenty-four consecutive monthly installments of \$250.00, commencing on the first
13 day of the month after the effective date of the decision. Failure to pay the cost reimbursement as
14 provided herein shall constitute a violation of probation which may subject Respondents' new
15 Automotive Repair Dealer Registration to outright revocation; however, the Director or the
16 Director's Bureau designee may elect to continue probation until such time as reimbursement of
17 the entire cost recovery amount of \$6,000.00 has been made to the Bureau.

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

21 DISCIPLINARY ORDER

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

25 IT IS HEREBY ORDERED that Smog Check Station No. RK 185771 issued to
26 Respondents CARMART and EARL GENE ADAMS, JR., and Basic Area Technician No. EB
27 067865 issued to Respondent EARL GENE ADAMS, JR. are revoked.

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

1 185771 issued to Respondents CARMART and EARL GENE ADAMS, JR., as well as the new
2 Automotive Repair Dealer Registration set forth in paragraphs 18-21 above, are revoked.

3 However, revocation of the new Automotive Repair Dealer Registration is stayed and
4 Respondents are placed on probation for three (3) years on the following terms and conditions.

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

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

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

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

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

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

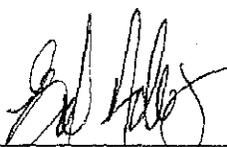
25 7. **Cost Recovery.** Payment to the Bureau of the full amount of cost
26 recovery of \$6,000.00 shall be paid in full by Respondents, and each of them, by paying twenty-
27 four (24) monthly installments of \$250.00 to the Bureau commencing on the first day of the
28 month after the effective date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

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

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and
8 have fully discussed it with my attorney, James Berglund, Esq.. I understand the stipulation and
9 the effect it will have on my Smog Check Station License, Basic Area Technician License, my
10 previous Automotive Repair Dealer Registration and new Automotive Repair Dealer
11 Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
12 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
13 Consumer Affairs.

14 DATED: 3-6-07

15 
16 EARL GENE ADAMS, JR., SOLE PROPRIETOR of
17 CARMART Respondents

18
19 I have read and fully discussed with Respondents CARMART and EARL GENE
20 ADAMS, JR. the terms and conditions and other matters contained in the above Stipulated
21 Settlement and Disciplinary Order. I approve its form and content.

22 DATED: 3/6/07

23
24 
25 JAMES BERGLUND, ESQ.
26 Attorney for Respondents

27 ENDORSEMENT

28 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

1 submitted for consideration by the Director of Consumer Affairs.

2

3 DATED: March 20, 2007

4

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

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STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

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DOJ Matter ID: SA2006102455
Stipulated Settlement rev one

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