

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

In the Matter of the Accusation Against:

**HOWE AVE TAILPIPES DETAIL & SMOG,
INC.,
dba TAILPIPES DETAIL & SMOG TEST
CENTER, MOHAMMED AFZAAL
SHAKOOR, President**
2411 Howe Avenue
Sacramento, CA 95825

Case No. 79/15-75

OAH No. 2015020896

Automotive Repair Dealer Reg. No. ARD
256272
Smog Check, Test Only, Station License
No. TC 256272

and

MOHAMMED AFZAAL SHAKOOR
124 East Walnut Street
Lodi, CA 95240

Advanced Emission Specialist Technician
License No. EA 147240 (to be
re-designated upon renewal as EO
147240 and/or EI 147240)

Respondents.

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 April 8, 2016.

DATED: March 14, 2016


TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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2 KENT D. HARRIS
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/15-75

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14 **SMOG, INC.,**
15 **dba TAILPIPES DETAIL & SMOG TEST**
16 **CENTER, MOHAMMED AFZAAL**
17 **SHAKOOR President**
2411 Howe Avenue
18 Sacramento, CA 95825

OAH No. 2015020896

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19 **Automotive Repair Dealer Reg. No. ARD**
20 **256272**
21 **Smog Check, Test Only, Station License No.**
22 **TC 256272**

23 **and**

24 **MOHAMMED AFZAAL SHAKOOR**
25 **124 East Walnut Street**
26 **Lodi, CA 95240**

27 **Advanced Emission Specialist Technician**
28 **License**
No. EA 147240 (to be re-designated upon
renewal as EO 147240 and/or EI 147240)

Respondents.

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

1 //

2 PARTIES

3 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
4 brought this action solely in his official capacity and is represented in this matter by Kamala D.
5 Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney
6 General.

7 2. Respondent Howe Ave Tailpipes Detail & Smog, Inc. dba Tailpipes Detail & Smog
8 Test Center and Mohammed Afzaal Shakoor ("Respondents") are representing themselves in this
9 proceeding and has chosen not to exercise its right to be represented by counsel.

10 3. On or about September 30, 2008, the Bureau of Automotive Repair issued
11 Automotive Repair Dealer Registration No. ARD 256272 to Howe Ave Tailpipes Detail & Smog,
12 Inc. dba Tailpipes Detail & Smog Test Center, Mohammed Afzaal Shakoor, President. The
13 Automotive Repair Dealer Registration was cancelled on March 5, 2013, and has not been
14 renewed.

15 4. On or about October 9, 2008, the Bureau of Automotive Repair issued Smog Check,
16 Test Only, Station License No. TC 256272 to Howe Ave Tailpipes Detail & Smog, Inc. dba
17 Tailpipes Detail & Smog Test Center, Mohammed Afzaal Shakoor, President). The Smog
18 Check, Test Only, Station License was cancelled on March 5, 2013, and has not been renewed.

19 5. In or about 2003, the Director issued Advanced Emission Specialist Technician
20 License Number EA 147240 ("smog technician license") to Mohammed Afzaal Shakoor
21 ("Respondent Shakoor"). Respondent's smog technician license expired on June 30, 2013. Upon
22 renewal of the license, the license will be re-designated as EO 147240 and/or EI 147240.¹

23 JURISDICTION

24 6. Accusation No. 79/15-75 was filed before the Director of Consumer Affairs
25 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 Respondents. The Accusation and all other statutorily required documents were properly served
2 on Respondents on November 12, 2014. Respondents timely filed their Notice of Defense
3 contesting the Accusation.

4 7. A copy of Accusation No. 79/15-75 is attached as exhibit A and incorporated herein
5 by reference.

6 ADVISEMENT AND WAIVERS

7 8. Respondents have carefully read, and understands the charges and allegations in
8 Accusation No. 79/15-75. Respondents have also carefully read, and understands the effects of
9 this Stipulated Settlement and Disciplinary Order.

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

17 10. Respondents voluntarily, knowingly, and intelligently waive and give up each and
18 every right set forth above.

19 CULPABILITY

20 11. Respondents admit the truth of each and every charge and allegation in Accusation
21 No. 79/15-75.

22 12. Respondents agree that their Automotive Repair Dealer Registration, Smog Station
23 License and Smog Check Technician License are subject to discipline and they agree to be bound
24 by the Director's probationary terms as set forth in the Disciplinary Order below.

25 RESERVATION

26 13. The admissions made by Respondents herein are only for the purposes of this
27 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
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1 Automotive Repair, or other professional licensing agency is involved, and shall not be
2 admissible in any other criminal or civil proceeding.

3 CONTINGENCY

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

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

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

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

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 256272
28 and Smog Check, Test Only, Station License No. TC 256272 to Howe Ave Tailpipes Detail &

1 Smog, Inc. dba Tailpipes Detail & Smog Test Center, Mohammed Afzaal Shakoor, President
2 shall not be disciplined due to the fact that it is currently cancelled.

3 IT IS FURTHER ORDERED: that Advanced Emission Specialist Technician License
4 Number EA 147240 to issued to Mohammed Afzaal Shakoor ("Respondent Shakoor") is revoked.
5 However, the revocation is stayed and Respondent is placed on probation for one year on the
6 following terms and conditions.

7 1. **Citation Fines and Training Course:** Within thirty days of the effective date of this
8 decision, Respondent Shakoor shall pay the outstanding fines of \$1,000.00 for Citation No.
9 C2013-0286 and \$500.00 for Citation No. M2013-0287. Within sixty days of the effective date
10 Respondent shall take an 8 hour BAR Certified Training Course. Failure to complete payment of
11 the fines and take the Training Course within these time frames shall constitute a violation of
12 probation which may subject Respondent's Advance Emission Specialist License to outright
13 revocation.

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

16 3. **Reporting.** Respondent must report in person or in writing as prescribed by the
17 Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each
18 quarter, on the methods used and success achieved in maintaining compliance with the terms and
19 conditions of probation.

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

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

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

1 7. **Cost Recovery.** Payment to the Bureau of \$1,592.50 in cost recovery shall be
2 received no later than 6 months before probation terminates. Respondent will be permitted to pay
3 these costs in 6 consecutive, equal monthly installments with the final payment due 6 months
4 prior to termination of probation. Failure to complete payment of cost recovery within this time
5 frame shall constitute a violation of probation which may subject Respondent's license to outright
6 revocation; however, the Director or the Director's Bureau of Automotive Repair designee may
7 elect to continue probation until such time as reimbursement of the entire cost recovery amount
8 has been made to the Bureau.

9 8. **Continuing Application of Probation Terms.** If Respondent removes his license, in
10 compliance with California Code of Regulations, title 16, sections 3340.28, 3340.29, and
11 3340.30, it will be redesignated as either a Smog Check Inspector (SI) license, or a Smog Check
12 Repair Technician (RT) license, or both. This disciplinary order and its terms of probation will
13 apply to any such redesignated license.

14
15 **ACCEPTANCE**

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog
18 Check, Test Only, Station License, and Advanced Emission Specialist Technician License, and
19 any redesignated license the Bureau may issue. I enter into this Stipulated Settlement and
20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Director of Consumer Affairs.

22
23 DATED: 9-28-2015


24 MOHAMMED AFAZAL SHAKOOR, PRESIDENT
25 AND ADVANCED EMISSION SPECIALIST
26 TECHNICIAN
27 HOWE AVE TAILPIPES DETAIL & SMOG, INC.
28 DBA TAILPIPES DETAIL & SMOG TEST CENTER
Respondent

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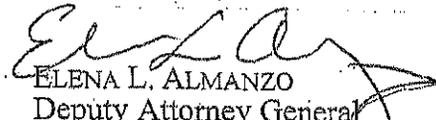
ENDORSEMENT

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

Dated: 9/28/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-75

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13 dba TAILPIPES DETAIL & SMOG TEST CENTER
2411 Howe Avenue
14 Sacramento, CA 95825

15 Automotive Repair Dealer Reg. No. ARD 256272
Smog Check, Test Only, Station License No.
16 TC 256272

17 and

18 MOHAMMED AFZAAL SHAKOOR
229 Oakwood Court
19 Lodi, CA 95240

20 Advanced Emission Specialist Technician License
No. EA 147240 (to be re-designated upon renewal as
21 EO 147240 and/or EI 147240)

22 Respondents.

Case No. 79/15-75

ACCUSATION

(SMOG & CHECK)

23
24 Complainant alleges:

25 PARTIES

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

28 ///

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2 (2) The smog check technician to successfully complete one or more
3 retraining courses prescribed by the department pursuant to subdivision (c) of Section
4 44031.5, or successfully complete one or more advanced retraining courses
5 prescribed by the department, or both.

6 (e) Failure to comply with an order of abatement or payment of an
7 administrative fine issued by the department pursuant to this section is grounds for
8 suspension or revocation of the license, or placing the license on probation . . .

9
10 7. Health and Safety Code section 44055, subdivision (b), states:

11 The department may deny an application for the renewal of a test station
12 or repair station license if the applicant, or any partner, officer, or director thereof, has
13 failed to pay any civil penalty or administrative fine in accordance with this article.

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

18 9. Health and Safety Code section 44072.8 states that when a license has been revoked
19 or suspended following a hearing under this article, any additional license issued under this
20 chapter in the name of the licensee may be likewise revoked or suspended by the director.

21 10. Business and Professions Code section 118, subdivision (b), states:

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

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

COST RECOVERY

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

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Failure to Pay Administrative Fine)**

7 13. On or about October 3, 2012, the Bureau issued Citation No. C2013-0286 to
8 Respondent Howe Avenue Tailpipes & Smog against its smog check station license, for a
9 violation of Health and Safety Code section 44012, subdivision (f). On or about July 18, 2012,
10 Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing
11 positive crankcase ventilation valve. Respondent was ordered to pay an administrative fine of
12 \$1,000. On or about October 30, 2012, the Bureau served Respondent with the citation. On or
13 about November 10, 2012, Respondent appealed the citation. The citation became final on
14 February 5, 2014.

15 14. Respondent Howe Avenue Tailpipes & Smog's smog check station license is subject
16 to disciplinary action pursuant to Health and Safety Code section 44050, subdivision (e), in that
17 Respondent failed to pay the administrative fine.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Failure to Complete Training)**

20 15. On or about October 3, 2012, the Bureau issued Citation No. M2013-0287 to
21 Respondent Shakoor against his smog technician license for a violation of Health and Safety
22 Code section 44032 (qualified technicians shall perform tests of emission control devices and
23 systems in accordance with Health and Safety Code section 44012). On or about July 18, 2012,
24 Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing
25 positive crankcase ventilation valve, as set forth in paragraph 13 above. Respondent was ordered
26 to complete an 8 hour Bureau certified training course and to submit proof of completion to the
27 Bureau within sixty (60) days from the date of the Citation Service Conference. Respondent was
28 also ordered to pay an administrative fine of \$500. On or about October 30, 2012, the Bureau

1 served Respondent with the citation. On or about November 10, 2012, Respondent appealed the
2 citation. The citation became final on February 5, 2014.

3 16. Respondent Shakoor's smog technician license is subject to disciplinary action
4 pursuant to Health and Safety Code section 44050, subdivision (e), in that Respondent failed to
5 complete the required training or pay the administrative fine.

6 OTHER MATTERS

7 17. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test Only,
8 Station License Number TC 256272, issued to Respondent Howe Ave Tailpipes Detail & Smog,
9 Inc., doing business as Tailpipes Detail & Smog Test Center, is revoked or suspended, any
10 additional license issued under this chapter in the name of said licensee may be likewise revoked
11 or suspended by the director.

12 18. Pursuant to Health and Safety Code section 44072.8, if Respondent Mohammed
13 Afzaal Shakoor's smog technician license, currently designated as EA 147240, but upon renewal
14 will be re-designated as EO 147240 and/or EI 147240, is revoked or suspended, any additional
15 license issued under this chapter in the name of said licensee may be likewise revoked or
16 suspended by the director.

17 PRAYER

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

20 1. Revoking or suspending Smog Check, Test Only, Station License Number TC
21 256272, issued to Howe Ave Tailpipes Detail & Smog, Inc., doing business as Tailpipes Detail &
22 Smog Test Center;

23 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
24 and Safety Code in the name of Howe Ave Tailpipes Detail & Smog, Inc.;

25 3. Revoking or suspending Mohammed Afzaal Shakoor's smog technician license,
26 currently designated as EA 147240, but which, upon renewal, will be re-designated as EO 147240
27 and/or EI 147240;

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4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Mohammed Afzaal Shakoor;

5. Ordering Howe Ave Tailpipes Detail & Smog, Inc., doing business as Tailpipes Detail & Smog Test Center, and Mohammed Afzaal Shakoor 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,

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

DATED: November 12, 2014


PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant