

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

In the Matter of the Amended Petition to  
Revoke Probation Against:

Case No. 79/14-120

SMOG DOCTOR,  
LOKPREET SINGH, OWNER,

OAH No. 2014050998

Automotive Repair Dealer Registration No.  
ARD 256422  
Smog Check, Test Only, Station License  
No. TC 256422

Respondent.

**PROPOSED DECISION**

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 8, 2015, in Sacramento, California.

Sterling A. Smith, Deputy Attorney General, represented Patrick Dorais (complainant), Chief, Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

There was no appearance by or on behalf of Lokpreet Singh, owner of Smog Doctor, (respondent).

Evidence was received, the record was closed, and the matter was submitted for decision on July 8, 2015.

**FACTUAL FINDINGS**

1. Complainant established that respondent was properly served with the Notice of Continued Hearing and was made aware that the hearing would proceed on July 8, 2015. Consequently, this matter proceeded as a default hearing under Government Code section 11520.

2. Respondent is: (1) registered as an Automotive Repair Dealer under Registration No. ARD 256422 (registration); and (2) licensed as a Smog Check, Test Only, Station under License No. TC 256422 (license). Respondent's registration and license are currently on probation. Complainant seeks to revoke respondent's probation, and re-impose the order of revocation of his registration and license based upon his failure to comply with the terms and conditions of probation as set forth below.

*Decision and Disciplinary Order*

3. On February 27, 2012, an accusation (Accusation) in Case No. 79/12-87, OAH No. 2012060733, was issued against respondent. The Accusation alleged various violations of the Business and Professions Code and Health and Safety Code, and regulations issued by the Bureau. On July 22, 2013, respondent entered into a Stipulated Settlement and Disciplinary Order (Stipulated Settlement) to settle the charges and allegations in the Accusation. In the Stipulated Settlement, respondent agreed that the charges and allegations in the Accusation, if proven at hearing, would constitute cause for imposing discipline on his registration and license. Respondent gave up his right to contest those charges and allegations. Respondent also agreed that his registration and license would be revoked, but the revocation would be stayed, and he would be placed on probation for three years under specified terms and conditions. In the Stipulated Settlement, respondent agreed to be bound by the decision and order issued by the Director of the Department based upon the Stipulated Settlement. On September 17, 2013, the Director of the Department adopted the Stipulated Settlement as his decision and order (Decision and Disciplinary Order), effective October 9, 2013.

4. The Decision and Disciplinary Order, in relevant part, contains the following conditions of probation:

2. **Reporting.** Respondent or Respondent's 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.

[¶] ... [¶]

7. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery of \$5000.00, payable in twenty-four (24) consecutive equal installments of \$208.33 with the final payment shall be received no later than 12 months before probation terminates. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's license and 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.

*Failure to Attend Probation Conference*

5. On December 30, 2013, Gilbert T. Sanchez, a Bureau Program Representative III, sent a Probation Conference Notification to respondent at his address of record, notifying him that a probation conference was scheduled for January 16, 2014, at 10:00 a.m. A certified mail receipt indicates that the December 30, 2013 Probation Conference Notification was received at respondent's address of record on January 2, 2014. Included in the notification was the following sentence:

*Failure to comply with this notice may result in a violation of probation pursuant to the final DECISION AND DISCIPLINARY ORDER of this case.* (Italics, capitalization and underlining in original.)

6. At the request of respondent's attorney, Mr. Sanchez agreed to reschedule the probation conference to January 28, 2014. On January 15, 2014, Mr. Sanchez sent another Probation Conference Notification to respondent at his address of record and to respondent's attorney, notifying them that a probation conference was scheduled for January 28, 2014, at 11:00 a.m. Certified mail receipts indicate that the January 15, 2014 Probation Conference Notification was signed for at respondent's address of record on a date not specified on the receipt, and received at the office of respondent's attorney on January 17, 2014. Included in the notification was the following sentence:

*Failure to comply with this notice may result in a violation of probation pursuant to the final DECISION AND DISCIPLINARY ORDER of this case.* (Italics, capitalization and underlining in original.)

7. On January 28, 2014, a man who identified himself as "Taran" appeared at the probation conference, but neither respondent nor his attorney appeared. Mr. Sanchez asked Taran if he was authorized to appear at the conference as respondent's authorized representative. Taran replied that he was "just a friend" of respondent's. Taran called respondent's attorney, and Mr. Sanchez spoke to him. The attorney told Mr. Sanchez that respondent had not appeared at the attorney's office, so the attorney would not be attending the conference. Prior to the January 28, 2014 conference, neither respondent nor respondent's attorney notified the Bureau that they would not be appearing at that conference.

8. Respondent's failure to attend the January 28, 2014 probation conference or to send an authorized representative to attend that conference constituted a violation of Condition 2 of the Decision and Disciplinary Order.

*Failure to Pay Cost Recovery*

9. Although the Decision and Disciplinary Order went into effect on October 9, 2013, as of February 2014, respondent had made no monthly payments toward cost recovery, as required by Condition 7. On February 28, 2014, the Bureau received a letter from respondent, which requested that the Bureau allow respondent “to start my payment with a minimum payment of \$208.33 dollars instead of paying the four monthly payment[s] together.” Respondent was making this request because he was “broke” and did “not have much money to pay the bills of Smog Doctor.”

10. By letter dated March 14, 2014, the Bureau denied respondent’s request for a modification of the cost recovery schedule. The letter, in relevant part, stated, “Please remit the past due amount of \$1,249.98 immediately to avoid action against your license(s).” (Underlining in original.)

11. On March 20, 2014, the Bureau received a payment from respondent in the amount of \$1,249.

12. On June 14, 2014, the Bureau sent a letter to respondent, which in relevant part stated:

To date, the amount of \$625.97 is past due and you are in violation of the terms of your probation as set forth in the Decision and Order. To bring your account current, the past due amount shall be paid immediately upon receipt of this letter, to avoid further action against your license(s). (Bolding and underlining in original.)

13. On June 30, 2014, the Bureau received a payment from respondent in the amount of \$625.97.

14. On October 16, 2014, the Bureau received a payment from respondent in the amount of \$1,249.

15. On February 20, 2015, the Bureau sent a letter to respondent, which in relevant part stated:

To date, the amount of \$1,041.64 is past due and you are in violation of the terms of your probation as set forth in the Decision and Order. To bring your account current, the past due amount shall be paid immediately upon receipt of this letter, to avoid further action against your license(s). (Bolding and underlining in original.)

16. As of May 28, 2015, the Bureau had received a total of \$2,499.97 in cost recovery from respondent. The last payment respondent made was received by the Bureau on October 16, 2014.

17. Respondent has failed to make cost recovery payments as required by Condition 7 of the Decision and Disciplinary Order. Respondent's failure to make cost recovery payments in accordance with Condition 7 constitutes a violation of the Decision and Disciplinary Order.

*Discussion*

18. Respondent did not appear at the hearing. Consequently, no evidence was presented to explain his failures to comply with the Decision and Disciplinary Order. When all the evidence is considered, complainant established that, given respondent's violations of Conditions 2 and 7 of the Decision and Disciplinary Order, respondent's probation should be revoked, and the order of revocation of respondent's registration and license should be reinstated.

LEGAL CONCLUSIONS

1. Condition 6 of the Decision and Disciplinary Order provides:

6. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, temporarily or permanently invalidate, or suspend Respondent's ... registration and Smog Check Test Only License.

2. Respondent failed to comply with Conditions 2 and 7 of the Decision and Disciplinary Order. These failures establish cause to permanently invalidate respondent's registration and license in accordance with Condition 6.

3. Respondent did not appear at the hearing or offer any evidence to explain or justify his failures to appear at the January 28, 2014 probation conference as required by Condition 2, and to pay the cost recovery as required by Condition 7. Consequently, complainant established that the stay of the revocation of respondent's registration and license imposed pursuant to the Decision and Disciplinary Order should be lifted, and that his registration and license should be revoked.



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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 Petition to Revoke Probation  
Against,

Case No. 79/14-120

13 **SMOG DOCTOR**  
14 **LOKPREET SINGH, OWNER**  
2597 N. Blackstone  
15 Fresno, CA 93703  
Automotive Repair Dealer Reg. No. ARD 256422  
16 Smog Check, Test Only, Station License No. TC  
256422

AMENDED PETITION TO REVOKE  
PROBATION

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Patrick Dorais ("Complainant") brings this Amended Petition to Revoke Probation  
22 solely in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"),  
23 Department of Consumer Affairs.

24 2. On or about October 9, 2008, the Director of Consumer Affairs ("Director") issued  
25 Automotive Repair Dealer Registration No. ARD 256422 ("registration") to Lokpreet Singh  
26 ("Respondent"), owner of Smog Doctor. Respondent's registration was in effect at all times  
27 relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

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1 Respondent was advised that failure to comply with the notice may result in a violation of his  
2 probation. Respondent's legal representative, Peter Singh ("Singh"), contacted the Bureau and  
3 requested that the probation conference be rescheduled. The Bureau rescheduled the conference  
4 to January 28, 2014. On or about January 15, 2014, the Bureau sent a notice to Respondent, via  
5 certified mail, requesting that he attend the probation conference on January 28, 2014, at the  
6 Bureau's Fresno Field Office. Respondent was again advised that failure to comply with the  
7 notice may result in a violation of his probation. A copy of the notice was also mailed to Singh  
8 via certified mail. On or about January 17, 2014, the Bureau received "Domestic Return  
9 Receipts", indicating that the notices had been delivered to Respondent, at his address of record  
10 set forth above, as well as to Singh. Respondent and Singh failed to attend the probation  
11 conference.

## 12 SECOND CAUSE TO REVOKE PROBATION

### 13 (Failure to Pay Cost Recovery)

14 9. Condition 7 of Respondent's probation states, in pertinent part, that payment to the  
15 Bureau of the full amount of cost recovery of \$5,000, payable in 24 consecutive equal  
16 installments of \$208.33 with the final payment, shall be received no later than 12 months before  
17 probation terminates. Respondent's first monthly installment of \$208.33 was due to be paid to the  
18 Bureau on October 9, 2013, the effective date of the decision described in Paragraph 4.

19 10. On or about February 8, 2014, and after Respondent had made no monthly  
20 installments of costs at all to the Bureau, Respondent requested that the Bureau modify the  
21 schedule of payments required by Condition 7 of his probation. By letter to Respondent of March  
22 14, 2014, the Bureau denied Respondent's request, and demanded immediate payment of all  
23 monthly installments then in arrears totaling \$1249.98. On or about March 20, 2014, the Bureau  
24 received payment from Respondent of \$1249.98, and not immediately as the Bureau had  
25 demanded.

26 11. Respondent has not paid the monthly installments of costs to the Bureau that were  
27 due for the months of April and May 2014.

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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. Revoking probation and re-imposing the order of revocation of Automotive Repair Dealer Registration No. ARD 256422 and Smog Check, Test Only, Station License No. TC 256422, issued to Lokpreet Singh, owner of Smog Doctor;
2. Taking such other and further action as deemed necessary and proper.

DATED: May 29, 2014

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