

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

In the Matter of the Accusation Against:

AB MOBIL SMOG TEST ONLY CENTER
MOHAMMAD HASHEM, OWNER
13872 Red Hill Avenue, Unit B
Tustin, CA 92780

Mailing Address:
6067 E. Montefino Lane
Anaheim, CA 92807

Automotive Repair Dealer Registration No.
ARD 257732
Smog Check Test Only Station License
No. TC 257732

Case No. 79/12-30

Respondents.

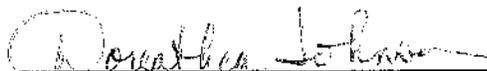
DECISION

The attached Stipulated Revocation of License 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

11/9/12

DATED: October 22, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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9 **BEFORE THE**
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FOR THE BUREAU OF AUTOMOTIVE REPAIR
10 **STATE OF CALIFORNIA**

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18 **Automotive Repair Dealer License Reg. No.**
ARD 257732
19 **Smog Check Test Only Station License**
No. TC 257732
20
21 Respondents.

Case No. 79/12-30

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
23 proceeding that the following matters are true:

24 PARTIES

25 1. Sherry Mehl (Complainant) was the Chief of the Bureau of Automotive Repair. She
26 brought this action solely in his official capacity and is represented in this matter by Kamala D.
27 Harris, Attorney General of the State of California, by Carl W. Sonne, Deputy Attorney General.
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1 the attendance of witnesses and the production of documents; the right to reconsideration and
2 court review of an adverse decision; and all other rights accorded by the California
3 Administrative Procedure Act and other applicable laws.

4 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
5 every right set forth above.

6 CULPABILITY

7 9. Respondent admits the truth of each and every charge and allegation in Accusation
8 No. 79/12-30, agrees that cause exists for discipline and hereby stipulates to revocation his
9 Automotive Repair Dealer License No. ARD 257732 and Smog Test Only Station License
10 Number TC 257732 for the Bureau's formal acceptance.

11 10. Respondent understands that by signing this stipulation he enables the Director to
12 issue his order accepting the revocation of their Automotive Repair Dealer License and Smog
13 Test Only Station License without further process.

14 RESERVATION

15 11. The admissions made by Respondent herein are only for the purposes of this
16 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
17 Automotive Repair or other professional licensing agency is involved, and shall not be admissible
18 in any other criminal or civil proceeding.

19 CONTINGENCY

20 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or
21 his designee. Respondent understands and agrees that counsel for Complainant and the staff of
22 the Bureau of Automotive Repair may communicate directly with the Director and staff of the
23 Department of Consumer Affairs regarding this stipulation, without notice to or participation by
24 Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that
25 they may not withdraw its agreement or seek to rescind the stipulation prior to the time the
26 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision
27 and Order, the Stipulated Revocation and Disciplinary Order shall be of no force or effect, except
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1 for this paragraph, it shall be inadmissible in any legal action between the parties, and the
2 Director shall not be disqualified from further action by having considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated Revocation
4 of License and Order, including facsimile signatures thereto, shall have the same force and effect
5 as the originals.

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

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

15 **ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer License No. ARD 257732 and
17 Smog Test Only Station License Number TC 257732 issued to Respondent Mohammad Hashem,
18 AB Mobil Smog Test Only Center, are hereby revoked and accepted by the Director of Consumer
19 Affairs.

20 1. The revocation of Respondent's Automotive Repair Dealer License and Smog Test
21 Only Center License and the acceptance of the revoked licenses by the Bureau shall constitute the
22 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
23 and shall become a part of Respondent's license history with the Bureau of Automotive Repair.

24 2. Respondent shall lose all rights and privileges as a automotive repair dealer and smog
25 check station in California as of the effective date of the Director's Decision and Order.

26 3. Respondent shall cause to be delivered to the Bureau his pocket licenses and, if ones
27 were issued, his wall certificates on or before the effective date of the Decision and Order.

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ENDORSEMENT

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

Dated: 9/10/2012

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



CARL W. SONNE
Deputy Attorney General
Attorneys for Complainant

SD2011800579
Stipulation.rtf

Exhibit A

Accusation No. 79/12-30

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17 **Tustin, CA 92780**
18 **Mailing Address:**
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Anahcim, CA 92807
Automotive Repair Dealer Reg. No. ARD 257732
Smog Check Test Only Station License No.
TC 257732

A C C U S A T I O N

(Smog Check)

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about April 8, 2009, the Director of Consumer Affairs ("Director") issued
26 Automotive Repair Dealer Registration Number ARD 257732 ("registration") to Mohammad
27 Hashem ("Respondent"), owner of AB Mobil Smog Test Only Center. Respondent's registration

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1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 March 31, 2012, unless renewed.

3 3. On or about April 22, 2009, the Director issued Smog Check Test Only Station
4 License Number TC 257732 ("smog check station license") to Respondent. Respondent's smog
5 check station license was in full force and effect at all times relevant to the charges brought herein
6 and will expire on March 31, 2012, unless renewed.

7 JURISDICTION

8 4. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
9 the Director may revoke an automotive repair dealer registration.

10 5. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
11 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
12 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
13 invalidating (revoking or suspending) a registration.

14 6. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
15 part, that the Director has all the powers and authority granted under the Automotive Repair Act
16 for enforcing the Motor Vehicle Inspection Program.

17 7. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
18 suspension of a license by operation of law, or by order or decision of the Director of Consumer
19 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
20 of jurisdiction to proceed with disciplinary action.

21 STATUTORY PROVISIONS

22 8. Bus. & Prof. Code section 9884.7 states, in pertinent part:

23 (a) The director, where the automotive repair dealer cannot show there
24 was a bona fide error, may deny, suspend, revoke, or place on probation the
25 registration of an automotive repair dealer for any of the following acts or omissions
26 related to the conduct of the business of the automotive repair dealer, which are done
27 by the automotive repair dealer or any automotive technician, employee, partner,
28 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.

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2 (4) Any other conduct that constitutes fraud.

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4 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
5 place on probation the registration for all places of business operated in this state by
6 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
7 engaged in a course of repeated and willful violations of this chapter, or regulations
8 adopted pursuant to it.

9 9. Bus. & Prof. Code section 22, subdivision (a), states:

10 "Board" as used in any provision of this Code, refers to the board in
11 which the administration of the provision is vested, and unless otherwise expressly
12 provided, shall include "bureau," "commission," "committee," "department,"
13 "division," "examining committee," "program," and "agency."

14 10. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
15 "license" includes "registration" and "certificate."

16 11. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

23

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

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

28 12. Health & Saf. Code section 44072.8 states that when a license has been revoked or
suspended following a hearing under this article, any additional license issued under this chapter
in the name of the licensee may be likewise revoked or suspended by the director.

COST RECOVERY

13. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
the administrative law judge to direct a licensee found to have committed a violation or

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1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 **UNDERCOVER OPERATION: 1991 TOYOTA PICKUP**

4 14. On March 24, 2011, an undercover operator of the Bureau (hereinafter "operator")
5 took the Bureau's 1991 Toyota pickup to Respondent's facility and requested a smog inspection.
6 The air suction system components had been removed from the Bureau-documented vehicle. The
7 operator signed and received a copy of a written estimate for the inspection. After the inspection
8 was completed, the operator paid the facility \$78.23 and received copies of an invoice and a
9 vehicle inspection report. The vehicle inspection report indicated that the smog inspection was
10 performed by Respondent's smog check technician, Henry Dang Huynh, resulting in the issuance
11 of electronic smog Certificate of Compliance No. WF586721C for the vehicle.

12 15. Later that same day, the Bureau inspected the vehicle and found that the air suction
13 system components were still missing.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements)**

16 16. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
17 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which
18 he knew, or in the exercise of reasonable care should have known to be untrue or misleading, as
19 follows: Respondent's smog check technician, Henry Dang Huynh, certified under penalty of
20 perjury on the vehicle inspection report that the Bureau's 1991 Toyota pickup had passed the
21 inspection and was in compliance with applicable laws and regulations. In fact, the air suction
22 system components had been removed vehicle and as such, the vehicle would not pass the
23 inspection required by Health & Saf. Code section 44012.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 17. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
27 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
28 fraud, as follows: Respondent issued an electronic smog certificate of compliance for the

1 Bureau's 1991 Toyota pickup without ensuring that a bona fide inspection was performed of the
2 emission control devices and systems on the vehicle, thereby depriving the People of the State of
3 California of the protection afforded by the Motor Vehicle Inspection Program.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Violations of the Motor Vehicle Inspection Program)**

6 18. Respondent's smog check station license is subject to disciplinary action pursuant to
7 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the
8 following sections of that Code:

9 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
10 performed on the Bureau's 1991 Toyota pickup in accordance with procedures prescribed by the
11 department.

12 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
13 the Bureau's 1991 Toyota pickup without ensuring that the vehicle was properly tested and
14 inspected to determine if it was in compliance with Health & Saf. Code section 44012.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant**
17 **to the Motor Vehicle Inspection Program)**

18 19. Respondent's smog check station license is subject to disciplinary action pursuant to
19 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the
20 following sections of California Code of Regulations, title 16:

21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
22 electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup.

23 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
24 of compliance for the Bureau's 1991 Toyota pickup even though the vehicle had not been
25 inspected in accordance with section 3340.42.

26 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
27 conducted on the Bureau's 1991 Toyota pickup in accordance with the Bureau's specifications.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 20. Respondent's smog check station license is subject to disciplinary action pursuant to
4 Health & Saf. Code section 44072.2. subdivision (d), in that Respondent committed a dishonest,
5 fraudulent, or deceitful act whereby another is injured, as follows: Respondent issued an
6 electronic smog certificate of compliance for the Bureau's 1991 Toyota pickup without ensuring
7 that a bona fide inspection was performed of the emission control devices and systems on the
8 vehicle, thereby depriving the People of the State of California of the protection afforded by the
9 Motor Vehicle Inspection Program.

10 **MATTERS IN AGGRAVATION**

11 21. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges as follows:

13 a. On or about January 6, 2010, the Bureau issued Citation No. C2010-0566 against
14 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
15 perform a visual/functional check of emission control devices according to procedures prescribed
16 by the department); and California Code of Regulations, title 16, section ("Regulation") 3340.35,
17 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
18 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing
19 positive crankcase ventilation system. The Bureau assessed civil penalties totaling \$500 against
20 Respondent for the violations. Respondent paid the fine on February 8, 2010.

21 b. On or about April 1, 2010, the Bureau issued Citation No. C2010-1035 against
22 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
23 determine that emission control devices and systems required by State and Federal law are
24 installed and functioning correctly in accordance with test procedures); and Regulation 3340.35,
25 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
26 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with the
27 ignition timing adjusted beyond specifications. The Bureau assessed civil penalties totaling
28 \$1,000 against Respondent for the violations. Respondent paid the fine on May 10, 2010.

1 c. On or about August 10, 2010, the Bureau issued Citation No. C2011-0166 against
2 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
3 perform a visual/functional check of emission control devices according to procedures prescribed
4 by the department); and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
5 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
6 Bureau undercover vehicle with a disconnected evaporative emission control system and a non-
7 California Air Resources Board approved carburetor. The Bureau assessed civil penalties totaling
8 \$2,500 against Respondent for the violations. Respondent paid the fine on October 11, 2010.

9 **OTHER MATTERS**

10 22. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
11 suspend, revoke, or place on probation the registration for all places of business operated in this
12 state by Respondent Mohammad Hashem, owner of AB Mobil Smog Test Only Center, upon a
13 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the
14 laws and regulations pertaining to an automotive repair dealer.

15 23. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
16 License Number TC 257732, issued to Respondent Mohammad Hashem, owner of AB Mobil
17 Smog Test Only Center, is revoked or suspended, any additional license issued under this chapter
18 in the name of said licensee may be likewise revoked or suspended by the director.

19 **PRAYER**

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

22 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
23 257732, issued to Mohammad Hashem, owner of AB Mobil Smog Test Only Center;

24 2. Revoking or suspending any other automotive repair dealer registration issued to
25 Mohammad Hashem;

26 3. Revoking or suspending Smog Check Test Only Station License Number TC 257732,
27 issued to Mohammad Hashem, owner of AB Mobil Smog Test Only Center;

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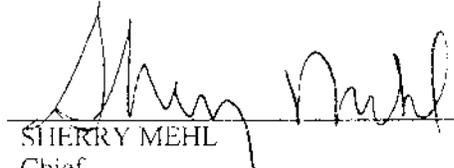
1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Mohammad Hashem;

3 5. Ordering Mohammad Hashem, owner of AB Mobil Smog Test Only Center, to pay
4 the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
5 case, pursuant to Business and Professions Code section 125.3;

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

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8 DATED: _____

9/14/11


SHERRY MEHL

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

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