

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

In the Matter of the Statement of Issues Against:

**ABDI HUSSEIN FUGFUGOSH D.B.A.**  
**SUNNY'S 76**  
100 MacArthur Boulevard  
Oakland, CA 94610

Case No. 79/14-62S

Respondent.

**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 7, 2014

DATED: \_\_\_\_\_

MAR 18 2014

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
 Attorney General of California  
 2 JOSHUA A. ROOM  
 Supervising Deputy Attorney General  
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 Deputy Attorney General  
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7  
 8 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
 9 **STATE OF CALIFORNIA**

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 11 In the Matter of the Statement of Issues  
 Against:  
 12 **ABDI HUSSEIN FUGFUGOSH D.B.A.**  
 13 **SUNNY'S 76**  
 14 **100 MacArthur Boulevard**  
**Oakland, CA 94610**

Case No. 79/14-62s

**STIPULATED SETTLEMENT AND  
 DISCIPLINARY ORDER**

Respondent.

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 17  
 18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
 19 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of  
 20 Automotive Repair, the parties hereby agree to the following Stipulated Settlement and  
 21 Disciplinary Order, which will be submitted to the Director for the Director's approval and  
 22 adoption as the final disposition of the Statement of Issues.

PARTIES

23  
 24 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He  
 25 brought this action solely in his official capacity and is represented in this matter by Kamala D.  
 26 Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney  
 27 General.





1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
 2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
 3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
 4 writing executed by an authorized representative of each of the parties.

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that an automotive repair dealer registration will be issued to  
 10 Respondent Abdi Hussein Fugfugosh d.b.a. Sunny's 76, 100 MacArthur Blvd., Oakland,  
 11 California, 94610, and immediately revoked. Furthermore, a smog check station license will be  
 12 issued to Respondent and immediately revoked. The revocations will be stayed and the  
 13 Respondent placed on one (1) year probation on the following terms and conditions.

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

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

20 3. **Report Financial Interest.** Within 30 days of the effective date of this action,  
 21 Respondent shall report any financial interest which any partners, officers, or owners of the  
 22 Respondent facility may have in any other business required to be registered pursuant to Section  
 23 9884.6 of the Business and Professions Code.

24 4. **Random Inspections.** Respondent shall provide Bureau representatives unrestricted  
 25 access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of  
 26 completion.

27 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
 28 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter

1 until the final decision on the accusation, and the period of probation shall be extended until such  
2 decision.

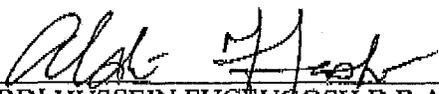
3 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that  
4 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
5 after giving notice and opportunity to be heard, temporarily or permanently invalidate the  
6 automotive repair dealer registration and/or suspend or revoke the smog check station license.

7 7. **False and Misleading Advertising.** If the accusation involves false and misleading  
8 advertising, during the period of probation, Respondent shall submit any proposed advertising  
9 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

10 8. **Restrictions.** During the period of probation, Respondent shall not perform any form  
11 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,  
12 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to  
13 properly perform such work, and BAR has been given 10 days notice of the availability of the  
14 equipment for inspection by a BAR representative.

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 and smog check  
18 station license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
19 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of  
20 Consumer Affairs.

21  
22 DATED: 2/10/14   
23 ABDI HUSSEIN FUGUGOSH D.B.A. SUNNY'S 76,  
24 100 MACARTHUR BLVD., OAKLAND,  
25 CALIFORNIA, 94610  
26 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: 3/3/14

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JOSHUA A. ROOM  
Supervising Deputy Attorney General

BRETT A. KINGSBURY  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Statement of Issues No. 79/14-62s**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
4 State Bar No. 243744  
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. **79/14-625**

13 **ABDI HUSSEIN FUGFUGOSH D.B.A.**  
14 **SUNNY'S 76**  
15 **100 MacArthur Boulevard**  
16 **Oakland, CA 94610**

**STATEMENT OF ISSUES**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

- 20 1. Patrick Dorais (Complainant) brings this Statement of Issues solely in his official  
21 capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.  
22 2. On or about July 8, 2013, the Bureau of Automotive Repair received an application  
23 for an automotive repair dealer registration from Abdi Hussein Fugfugosh d.b.a. Sunny's 76, 100  
24 MacArthur Boulevard, Oakland, California, 94610 (Respondent). On or about July 1, 2013, Abdi  
25 Hussein Fugfugosh certified under penalty of perjury to the truthfulness of all statements,  
26 answers, and representations in the application. The Bureau denied the application on August 14,  
27 2013.



1 automotive repair dealer, which are done by the automotive repair dealer or any automotive  
2 technician, employee, partner, officer, or member of the automotive repair dealer.

3 "(1) Making or authorizing in any manner or by any means whatever any statement written  
4 or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable  
5 care should be known, to be untrue or misleading.

6 ". . . .

7 "(4) Any other conduct that constitutes fraud.

8 ". . . ."

9 8. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
10 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
11 the Motor Vehicle Inspection Program.

12 9. Section 44072 of the Health and Safety Code provides, in pertinent part, that the  
13 director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1.

14 10. Section 44072.1 of the Health and Safety Code states:

15 "The director may deny a license if the applicant, or any partner, officer, or director thereof,  
16 does any of the following:

17 ". . . .

18 "(c) Has committed any act which, if committed by any licensee, would be grounds for the  
19 suspension or revocation of a license issued pursuant to this chapter.

20 ". . . ."

21 11. Section 44072.2(e) of the Health and Safety Code provides that the director may take  
22 disciplinary action against a license if the licensee, or any partner, officer, or director thereof, has  
23 misrepresented a material fact in obtaining a license.

24 12. Section 118(a) of the Business and Professions Code states:

25 "The withdrawal of an application for a license after it has been filed with a board in the  
26 department shall not, unless the board has consented in writing to such withdrawal, deprive the  
27 board of its authority to institute or continue a proceeding against the applicant for the denial of  
28

1 the license upon any ground provided by law or to enter an order denying the license upon any  
2 such ground."

3 **BACKGROUND**

4 13. Question number 8(b) of the automotive repair dealer registration application asked:  
5 "Has any person listed in number 7 ever been an Owner, Partner, Corporate Officer,  
6 Member, Director, Trustee or Responsible Managing Employee of a Sole Proprietorship,  
7 Partnership, Corporation, Limited Liability Company or Limited Partnership that had an  
8 automotive repair dealer registration, smog check station license, lamp and/or brake station  
9 license, gold shield certification issued by the Bureau of Automotive Repair (BAR) denied,  
10 suspended, revoked, placed on probation or been issued a citation?" Respondent answered by  
11 checking the box for "NO."

12 14. Abdi Hussein Fugfugosh was listed in number 7 of the automotive repair dealer  
13 registration application.

14 15. Question number 9(d) of the smog check station license application asked:

15 "Has any person listed in number 8 been an Owner, Partner, Corporate Officer, Member,  
16 Director, Trustee or Responsible Managing Employee of a Sole Proprietorship, Partnership,  
17 Corporation, Limited Liability Company or Limited Partnership that had an Automotive Repair  
18 Dealer registration, Smog Check Station license, Lamp and/or Brake Station license, Gold Shield  
19 certification, current Smog Check Technician or Lamp and/or Brake Adjuster license issued by  
20 the Bureau of Automotive Repair denied, suspended, revoked, placed on probation or been issued  
21 a citation?" Respondent answered by checking the box for "NO."

22 16. Abdi Hussein Fugfugosh was listed in number 8 of the smog check station license  
23 application.

24 17. Abdi Hussein Fugfugosh d.b.a. Sunny's 76, 18950 Lake Chabot Road, Castro Valley,  
25 California, 94546, ARD257893/ TC257893, was issued Citation # C2012-0396 on November 2,  
26 2011. The citation was paid on January 3, 2012.

27 ///

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1 substantially benefit himself or herself or another, or substantially injure another. The  
2 circumstances are described above in Background.

3 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Basis for Discipline if Licensed)**

5 22. Respondent's application for a smog check station license is subject to denial under  
6 sections 44072.1(c) and 44072.2(e) of the Health and Safety Code in that Respondent committed  
7 an act that, if committed by any licensee, would be grounds for the suspension or revocation of a  
8 license. Specifically, as discussed more fully in Background, Respondent misrepresented a  
9 material fact in seeking to obtain a license.

10 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

11 **(False Statement on Application)**

12 23. Respondent's application for a smog check station license is subject to denial under  
13 section 480(c) of the Business and Professions Code and section 44002 of the Health and Safety  
14 Code in that Respondent knowingly made a false statement of fact required to be revealed in the  
15 application for the license.

16 **PRAYER**

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

- 19 1. Denying the application of Abdi Hussein Fugfugosh d.b.a. Sunny's 76, 100  
20 MacArthur Boulevard, Oakland, California, 94610, for an automotive repair dealer registration;  
21 2. Denying the application of Abdi Hussein Fugfugosh d.b.a. Sunny's 76, 100  
22 MacArthur Boulevard, Oakland, California, 94610, for a smog check station license;  
23 3. Taking such other and further action as is deemed necessary and proper.

24 DATED: November 25, 2013



25 PATRICK DORAIS  
26 Chief  
27 Bureau of Automotive Repair  
28 Department of Consumer Affairs  
State of California  
*Complainant*

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