

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

In the Matter of the Accusation Against:

CHECK ENGINE AUTO & SMOG
3935 Wayside Lane, Unit A
Carmichael, CA 95608
RICHARD ALLEN STARR, OWNER
Automotive Repair Dealer Registration
No. ARD 260146
Smog Check Station License
No. RC 260146

RICHARD ALLEN STARR
8844 North Winding Way
Fair Oaks, CA 95628

Advanced Emission Specialist Technician
License No. EA 145060

Case No. 79/12-116

OAH No. 2012051229

Respondents.

DECISION

The attached Stipulated to Revocation of Registration and Licenses and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter. The typographical error on page 1, line 12, is noted: The OAH No. should be 2012051229.

This Decision shall become effective 1/14/13.

DATED: December 18, 2012


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12
13 **CHECK ENGINE AUTO & SMOG**
3935 Wayside Lane, Unit A
Carmichael, CA 95608
14 **RICHARD ALLEN STARR, OWNER**
Automotive Repair Dealer Registration No.
15 **ARD 260146**
Smog Check Station License No. RC 260146,
16
17 **and**
18 **RICHARD ALLEN STARR**
8844 North Winding Way
Fair Oaks, CA 95628
19 **Advanced Emission Specialist Technician**
License No. EA 145060
20
21 Respondents.

Case No. 79/12-116

OAH No. 79/12-116

**STIPULATION TO REVOCATION OF
REGISTRATION AND LICENSES 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. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
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 Karen R. Denvir, Deputy Attorney
28 General.

1 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
2 the attendance of witnesses and the production of documents; the right to reconsideration and
3 court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

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

7 **CULPABILITY**

8 10. Respondent admits the truth of each and every charge and allegation in Accusation
9 No. 79/12-116, agrees that cause exists for discipline and hereby stipulates to revocation of his
10 Automotive Repair Dealer Registration No. ARD 260146, his Smog Check Station License No.
11 RC 260146, and his Advanced Emission Specialist Technician License No. EA 145060.

12 11. Respondent understands that by signing this stipulation he enables the Director to
13 issue an order accepting the stipulation to revocation of his Automotive Repair Dealer
14 Registration, Smog Check Station License, and Advanced Emission Specialist Technician
15 License without further process.

16 **CONTINGENCY**

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

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1 4. If Respondent ever files an application for licensure or a petition for reinstatement in
2 the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must
3 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
4 effect at the time the petition is filed, and all of the charges and allegations contained in
5 Accusation No. 79/12-116 shall be deemed to be true, correct and admitted by Respondent when
6 the Director determines whether to grant or deny the petition.

7 5. Respondent shall pay the agency the \$1,500.00 fine associated with Citation No.
8 C2011-1083 prior to issuance of a new or reinstated Automotive Dealer Registration.
9 Respondent shall complete the sixteen (16) hour training course associated with Citation No.
10 M2011-1084, prior to issuance of a new or reinstated Advanced Emission Specialist Technician
11 License.

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14 **ACCEPTANCE**

15 I have carefully read the Stipulation to Revocation of Registration and Licenses and Order.
16 I understand the stipulation and the effect it will have on my Automotive Repair Dealer
17 Registration, Smog Check Station License, and Advanced Emission Specialist Technician
18 License. I enter into this Stipulation to Revocation of Registration and Licenses and Order
19 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
20 Director of Consumer Affairs.

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22 DATED: 10-2-12



23 RICHARD ALLEN STARR, CHECK ENGINE
24 AUTO & SMOG
25 Respondent

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ENDORSEMENT

The foregoing Stipulation to Revocation of Registration and Licenses and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: *November 14, 2012*

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/12-116

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2 ARTHUR D. TAGGART
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Automotive Repair Dealer Registration No.
15 **ARD 260146**
Smog Check Station License No. RC 260146,
16
17 **and**
18 **RICHARD ALLEN STARR**
3844 Henderson Way
Carmichael, CA 95608
19 **Advanced Emission Specialist Technician**
License No. EA 145060

Case No. 79/12-116

20 **ACCUSATION**
21 **SMOG CHECK**

22 Respondents.

23 Complainant alleges:

24 **PARTIES**

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

27 **Automotive Repair Dealer Registration**

28 2. On or about December 7, 2009, the Bureau issued Automotive Repair Dealer
Registration Number ARD 260146 to Richard Allen Starr ("Respondent"), doing business as Check

1 Engine Auto & Smog. The automotive repair dealer registration expired on October 31, 2011,
2 and was cancelled on November 13, 2011.

3 **Smog Check Station License**

4 3. On or about December 8, 2009, the Bureau issued Smog Check Station License
5 Number RC 260146 ("station license") to Respondent. The station license was suspended on
6 August 18, 2011, and expired on October 31, 2011.

7 **Advanced Emission Specialist Technician License**

8 4. On a date uncertain in 2002, the Bureau issued Advanced Emission Specialist
9 Technician License Number EA 145060 ("technician license") to Respondent. The technician
10 license was suspended on July 19, 2011, and will expire on May 31, 2012.

11 **STATUTORY PROVISIONS**

12 5. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
13 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
14 the Motor Vehicle Inspection Program.

15 6. Section 44050 of the Health and Safety Code states, in pertinent part:

16 (a) In addition to or in lieu of any other remedy or penalty, including, but
17 not limited to, education, training, or an office conference, the department may issue
18 a citation to a licensee, contractor, or fleet owner for a violation of the requirements
of this chapter or a regulation adopted pursuant to this chapter. The citation may
contain an order of abatement or the assessment of an administrative fine, or both.

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

21 7. Section 44055 of the Health and Safety Code, subdivision (b) states:

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

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

1 9. Section 44072.8 of the Health and Safety Code states:

2 When a license has been revoked or suspended following a hearing under
3 this article, any additional license issued under this chapter in the name of the
4 licensee may be likewise revoked or suspended by the director.

4 **COST RECOVERY**

5 10. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

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

11 11. Respondent has subjected his station license to discipline pursuant to Health and
12 Safety Code section 44050, subdivision (e), in that on or about March 17, 2011, the Bureau issued
13 Citation No. C2011-1083 to Respondent against his station license for violations of Health and
14 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
15 emission control devices) and California Code of Regulations, title 16, ("Regulation"), section
16 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). On
17 April 14, 2011, the Bureau served Respondent with the citation. The Bureau assessed an
18 administrative fine in the amount of \$1,500. However, Respondent failed to appeal the citation or
19 pay the administrative fine within thirty (30) days of service of the citation.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Complete Training)**

22 12. Respondent has subjected his technician license to discipline pursuant to Health and
23 Safety Code section 44050, subdivision (e), in that on or about March 17, 2011, the Bureau issued
24 Citation No. M2011-1084 to Respondent against his technician license for violations of Health
25 and Safety Code section 44032, (qualified technicians shall perform tests of emission control
26 systems and devices in accordance with section 44012 of that Code) and California Code of
27 Regulations, title 16, ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall
28 inspect, test, and repair vehicles in accordance with sections 44012 and 44035 of the Health and

1 Safety Code, and Regulation section 3340.42). On April 14, 2011, the Bureau served Respondent
2 with the citation. The Bureau required that Respondent to complete a Bar 16-hour Training
3 Course. However, Respondent failed to appeal the citation within thirty (30) days of service of
4 the citation and Respondent has not completed the required training.

5 **OTHER MATTERS**

6 13. Under Health and Safety Code section 44072.8, if Smog Check Station License
7 Number RC 260146, issued to Richard Allen Starr, is revoked or suspended, any additional
8 license issued under this chapter in the name of said licensee may be likewise revoked or
9 suspended by the director.

10 14. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
11 Technician License Number EA 145060, issued to Richard Allen Starr, is revoked or suspended,
12 any additional license issued under this chapter in the name of said licensee may be likewise
13 revoked or suspended by the director.

14 **PRAYER**

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

17 1. Revoking or suspending Smog Check Station License Number RC 260146, issued to
18 Richard Allen Starr, doing business as Check Engine Auto & Smog;

19 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Richard Allen Starr;

21 3. Revoking or suspending Advanced Emission Specialist Technician License Number
22 EA 145060, issued to Richard Allen Starr;

23 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
24 and Safety Code in the name of Richard Allen Starr;

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1 5. Ordering Richard Allen Starr to pay the Bureau of Automotive Repair the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and,

4 6. Taking such other and further action as deemed necessary and proper.
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8 DATED: April 5, 2012


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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