

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

In the Matter of the Accusation Against:

BASELINE SMOG;
SILVINO POSADAS, Owner
25784 Baseline Road
Highland, CA 92410

Automotive Repair Dealer Registration No.
ARD 274735
Smog Check Test Only Station License No.
TC 274735,

Respondent.

Case No. 79/14-138

OAH No. 2014080369

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 October 15, 2014.

DATED: September 23, 2014



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 TERRENCE M. MASON
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4 State Bar No. 158935
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Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 79/14-138

12 **BASELINE SMOG;**
SILVINO POSADAS, Owner
13 25784 Baseline Road
Highland, CA 92410
14 Automotive Repair Dealer Registration No.
ARD 274735
15 Smog Check Test Only Station License No.
TC 274735,
16

OAH No. 2014080369

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Respondent.
18

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

21 PARTIES

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

26 2. Respondent Silvino Posadas, owner of Baseline Smog ("Respondent"), is represented
27 in this proceeding by attorney William Ferreira, whose address is: Automotive Defense
28 Specialists, 582 Market St., Suite 1608, San Francisco, CA 94104.

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

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

5 CULPABILITY

6 10. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 79/14-138.

8 11. Respondent agrees that his Automotive Repair Dealer Registration is subject to
9 discipline and he agrees to be bound by the Director's probationary terms as set forth in the
10 Disciplinary Order below.

11 CONTINGENCY

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

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

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 274735
9 and Smog Check Test Only Station License No. TC 274735 issued to Respondent Silvino
10 Posadas dba Baseline Smog are each revoked. However, the revocations are stayed and
11 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

14 2. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
15 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
16 conspicuously displayed in a location open to and frequented by customers and shall remain
17 posted during the entire period of actual suspension.

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

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

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

28 6. **Jurisdiction.** If an accusation is filed against Respondent during the term of

1 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
2 until the final decision on the accusation, and the period of probation shall be extended until such
3 decision.

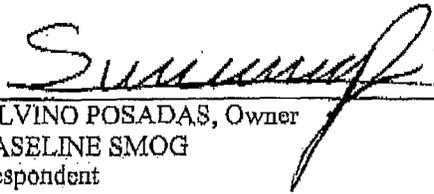
4 7. **Violation of Probation.** Should the Director of Consumer Affairs determine that
5 Respondent has failed to comply with the terms and conditions of probation, the Department may,
6 after giving notice and opportunity to be heard temporarily or permanently invalidate the
7 registration and suspend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

8 8. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery in the
9 amount of \$7,200.00 shall be received no later than twelve (12) months before probation
10 terminates. Payments may be made in twenty-four (24) equal monthly payments of \$300.00.
11 Failure to complete payment of cost recovery within this time frame shall constitute a violation of
12 probation which may subject Respondent's registration and license to outright revocation;
13 however, the Director or the Director's Bureau of Automotive Repair designee may elect to
14 continue probation until such time as reimbursement of the entire cost recovery amount has been
15 made to the Bureau.

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, William Ferreira. I understand the stipulation and the effect it will
19 have on my Automotive Repair Dealer Registration and Smog Check Test Only Station License.
20 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
21 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
22 Affairs.

23
24 DATED: 8-26-14


25 SILVINO POSADAS, Owner
26 BASELINE SMOG
27 Respondent
28

1 I have read and fully discussed with Respondent Silvino Posadas, Owner of Baseline Smog,
2 the terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4
5 DATED: 8/26/14 
6 WILLIAM FERREIRA
7 Attorney for Respondent

8
9 **ENDORSEMENT**

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

12 DATED: 8/26/14 Respectfully submitted,
13 KAMALA D. HARRIS
14 Attorney General of California
15 GREGORY J. SALUTE
16 Supervising Deputy Attorney General
17 
18 TERRENCE M. MASON
19 Deputy Attorney General
20 *Attorneys for Complainant*

21 LA2014511897
22 Baseline Stip.docx

Exhibit A

Accusation No. 79/14-138

1 KAMALA D. HARRIS
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STATE OF CALIFORNIA

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11 In the Matter of the Accusation Against:
12 **BASELINE SMOG;**
SILVINO POSADAS, OWNER
13 25784 BASELINE RD.
HIGHLAND, CA 92410
14 AUTOMOTIVE REPAIR DEALER REGISTRATION
No. ARD 274735
15 SMOG CHECK TEST ONLY STATION LICENSE
No. TC 274735
16
17 AND
18 **ADAM ANDREW GOMEZ**
18772 VALENCIA ST.
19 HESPERIA, CA 92345
SMOG CHECK INSPECTOR LICENSE No. EO
20 636080,
21
22
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Case No. 79/14-138

ACCUSATION

RESPONDENTS.

Complainant alleges:

PARTIES

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

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1 **Automotive Repair Dealer Registration No. ARD 274735**

2 2. On or about November 8, 2013, the Bureau issued Automotive Repair Dealer
3 Registration ("registration") No. ARD 274735 to Baseline Smog; Silvino Posadas, Owner
4 ("Respondent Baseline"). The Automotive Repair Dealer Registration was in full force and effect
5 at all times relevant to the charges brought herein and will expire on November 30, 2014, unless
6 renewed.

7 **Smog Check Test Only Station License No. TC 274735**

8 3. On or about December 5, 2013, the Bureau issued Smog Check Test Only Station
9 License ("station license") No. TC 274735 to Baseline Smog; Silvino Posadas, Owner. The Smog
10 Check Test Only Station License was in full force and effect at all times relevant to the charges
11 brought herein and will expire on November 30, 2014, unless renewed.

12 **Smog Check Inspector License No. EO 636080**

13 4. On or about September 26, 2013, the Bureau issued Smog Check Inspector License
14 ("inspector license") No. EO 636080 to Adam Andrew Gomez ("Respondent Gomez"). The
15 Smog Check Inspector License was in full force and effect at all times relevant to the charges
16 brought herein and will expire on August 31, 2015, unless renewed.¹

17 **JURISDICTION**

18 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
19 Bureau of Automotive Repair.

20 6. Section 9884.7 of the Business and Professions Code ("Code") provides that the
21 Director may revoke an automotive repair dealer registration.

22 7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
23 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
24 against an automotive repair dealer or to render a decision invalidating a registration temporarily
25 or permanently.

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

1 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more
2 than one place of business in this state, the director pursuant to subdivision (a) shall only suspend,
3 revoke, or place on probation the registration of the specific place of business which has violated
4 any of the provisions of this chapter. This violation, or action by the director, shall not affect in
5 any manner the right of the automotive repair dealer to operate his or her other places of business.

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

10 15. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

19 COST RECOVERY

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

24 FACTUAL BACKGROUND

25 17. The Bureau conducted a review of the Vehicle Information Database ("VID") from
26 Respondent Baseline's facility. The VID showed abnormal OBDII² code failure patterns. In
27 March, 2014, Bureau Representative Alfred Denno reviewed the VID information for the period
28 between December 1, 2013 through March 12, 2014. The investigation revealed that nine (9)

² The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II functional test, it will fail the overall inspection.

1 vehicles were fraudulently certified with pending or history Diagnostic Trouble Codes ("DTC's")
 2 stored in the Power Train Control Module ("PCM") memory not supported by the vehicles being
 3 tested.

4 18. The details of the clean plugging activities, Vehicles 1 through 9, set forth in Table 1
 5 below, were all certified with trouble code P1250 stored in the PCM memory while the original
 6 equipment manufacturer ("OEM") service information shows these vehicles do not support the
 7 pending codes stored in the PCM memory. The Bureau Representative also consulted the original
 8 equipment manufacturer service information for these vehicles and industry standard references
 9 Mitchell On-Demand and Alldata Information Systems and confirmed that none of the clean
 10 plugged vehicles supported fault code P1250. Furthermore, the access code of Smog Check
 11 Inspector Respondent Adam Andrew Gomez was used for all the inspections. The vehicles
 12 receiving smog certificates were not tested during the OBD II functional test and another
 13 vehicle(s) was used, constituting clean plugging.³

14 19. The specific details of Respondents' clean plugging activities are set forth below:

15 **Table 1**

Time of Certification			Vehicle Certified				Technician		
Date	Start Time	End Time	Year	Make	Model	License Plate #	Unsup-ported Code	Inspector License #	Certificate of Compliance #
12/14/13	1137	1144	2005	Dodge	Magnum	5KKV387	P1250	EO636080	YB251125C
12/18/13	1303	1310	2002	Mitsubishi	Eclipse	4VND690	P1250	EO636080	YB251132C
1/21/14	1245	1251	2002	Honda	Accord	5MHT618	P1250	EO636080	YB630948C
2/8/14	1215	1221	1997	Nissan	Sentra	4LWR291	P1250	EO636080	YD154575C
2/13/14	1618	1624	1998	Toyota	Avalon	3XNZ872	P1250	EO636080	PE091512C
3/3/14	1052	1101	2000	Honda	Accord	6UIT014	P1250	EO636080	YD612166C
3/4/14	0907	0918	2000	Nissan	Altima	6FHP194	P1250	EO636080	YD612174C
3/7/14	1451	1459	1998	Toyota	Avalon	4KSB614	P1250	EO636080	YD612194C
3/7/14	1628	1635	2000	Nissan	Sentra	5POZ336	P1250	EO636080	YD612196C

22 *All times are military times.

23 ///

24 ///

26 ³ Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code)
 27 status of a passing vehicle for the purposes of illegally issuing a smog certificate to another vehicle that is not in
 28 compliance due to a failure to complete the minimum number of self test, known as monitors, or due to the presence
 of a stored fault code that indicates an emission control system or component failure.

1 **Fraudulent Inspection No. 1**

2 a. BAR 97 test detail data shows that between 1137 and 1144 hours on December
3 14, 2013, a 2005 Dodge Magnum, California License No.#5KKV387 was inspected. Certificate
4 of Compliance # YB251125C was issued by Respondent Baseline using Smog Check Inspector
5 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
6 P1250 was stored in the PCM memory at the time of certification. Service information shows
7 DTC P1250 is not supported by a 2005 Dodge Magnum.

8 **Fraudulent Inspection No. 2**

9 b. BAR 97 test detail data shows that between 1303 and 1310 hours on December
10 18, 2013, a 2002 Mitsubishi Eclipse (Calif. License No. 4VND690) was inspected. Certificate of
11 Compliance No. YB251132C was issued by Respondent Baseline using Smog Check Inspector
12 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
13 P1250 was stored in the PCM memory at the time of certification. Service information shows
14 DTC P1250 is not supported by a 2002 Mitsubishi Eclipse.

15 **Fraudulent Inspection No. 3**

16 c. BAR 97 test detail data shows that between 1245 and 1251 hours on January
17 21, 2014, a 2002 Honda Accord (Calif. License No. 5MHT618) was inspected. Certificate of
18 Compliance No. YB630948C was issued by Respondent Baseline using Smog Check Inspector
19 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
20 P1250 was stored in the PCM memory at the time of certification. Service information shows
21 DTC P1250 is not supported by a 2002 Honda Accord.

22 **Fraudulent Inspection No. 4**

23 d. BAR 97 test detail data shows that between 1215 and 1221 hours on February
24 8, 2014, a 1997 Nissan Sentra (Calif. License No. 4LWR291) was inspected. Certificate of
25 Compliance No. YD154575C was issued by Respondent Baseline using Smog Check Inspector
26 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
27 P1250 was stored in the PCM memory at the time of certification. Service information shows
28 DTC P1250 is not supported by a 1997 Nissan Sentra.

1 **Fraudulent Inspection No. 5**

2 e. BAR 97 test detail data shows that between 1618 and 1624 hours on February
3 13, 2014, a 1998 Toyota Avalon (Calif. License No. 3XNZ872) was inspected. Certificate of
4 Compliance No. PE091512C was issued by Respondent Baseline using Smog Check Inspector
5 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
6 P1250 was stored in the PCM memory at the time of certification. Service information shows
7 DTC P1250 is not supported by a 1998 Toyota Avalon.

8 **Fraudulent Inspection No. 6**

9 f. BAR 97 test detail data shows that between 1052 and 1101 hours on March 3,
10 2014, a 2000 Honda Accord (Calif. License No. 6UIT014) was inspected. Certificate of
11 Compliance No. YD612166C was issued by Respondent Baseline using Smog Check Inspector
12 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
13 P1250 was stored in the PCM memory at the time of certification. Service information shows
14 DTC P1250 is not supported by a 2000 Honda Accord.

15 **Fraudulent Inspection No. 7**

16 g. BAR 97 test detail data shows that between 0907 and 0918 hours on March 4,
17 2014, a 2000 Nissan Altima (Calif. License No. 6FHP194) was inspected. Certificate of
18 Compliance No. YD612174C was issued by Respondent Baseline using Smog Check Inspector
19 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
20 P1250 was stored in the PCM memory at the time of certification. Service information shows
21 DTC P1250 is not supported by a 2000 Nissan Altima.

22 **Fraudulent Inspection No. 8**

23 h. BAR 97 test detail data shows that between 1451 and 1459 hours on March 7,
24 2014, a 1998 Toyota Avalon (Calif. License No. 4KSB614) was inspected. Certificate of
25 Compliance No. YD612194C was issued by Respondent Baseline using Smog Check Inspector
26 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
27 P1250 was stored in the PCM memory at the time of certification. Service information shows
28 DTC P1250 is not supported by a 1998 Toyota Avalon.

1 **Fraudulent Inspection No. 9**

2 i. BAR 97 test detail data shows that between 1628 and 1635 hours on March 7,
3 2014, a 2000 Nissan Sentra (Calif. License No. 5POZ336) was inspected. Certificate of
4 Compliance No. YD612196C was issued by Respondent Baseline using Smog Check Inspector
5 License EO 636080 belonging to Respondent Gomez. The BAR97 Inspection Detail shows DTC
6 P1250 was stored in the PCM memory at the time of certification. Service information shows
7 DTC P1250 is not supported by a 2000 Nissan Sentra.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 20. Respondent Baseline's registration is subject to discipline pursuant to Code section
11 9884.7(a)(1), in that from December 14, 2013 through March 7, 2014, Respondent made or
12 authorized statements which he knew or in the exercise of reasonable care should have known to
13 be untrue or misleading, as follows: Respondent certified that the vehicles set forth above in
14 Table 1, had passed inspection and were in compliance with applicable laws and regulations. In
15 fact, Respondent conducted the inspections on those vehicles using the clean plugging method by
16 substituting or using different vehicles during the OBD II functional tests in order to issue smog
17 certificates of compliance, and did not test or inspect the vehicles as required by Health and
18 Safety Code section 44012.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 21. Respondent Baseline's registration is subject to discipline pursuant to Code section
22 9884.7(a)(4), in that from December 14, 2013 through March 7, 2014, Respondent committed
23 acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set
24 forth above in Table 1, without performing bona fide inspections of the emission control devices
25 and systems on those vehicles, thereby depriving the People of the State of California of the
26 protection afforded by the Motor Vehicle Inspection Program.

27 ///

28 ///

1 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of
2 compliance for those vehicles without performing bona fide inspections of the emission control
3 devices and systems on the vehicles, thereby depriving the People of the State of California of the
4 protection afforded by the Motor Vehicle Inspection Program.

5 **SIXTH CAUSE FOR DISCIPLINE**

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

7 25. Respondent Gomez's inspector license is subject to discipline pursuant to Health and
8 Safety Code section 44072.2(a), in that from December 14, 2013 through March 7, 2014,
9 regarding the vehicles set forth above in Table 1, he failed to comply with section 44012 of that
10 Code in a material respect, as follows: Respondent Gomez failed to perform the emission control
11 tests on those vehicles in accordance with procedures prescribed by the department.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant to the**
14 **Motor Vehicle Inspection Program)**

15 26. Respondent Gomez's inspector license is subject to discipline pursuant to Health and
16 Safety Code section 44072.2(c), in that from December 14, 2013 through March 7, 2014,
17 regarding the vehicles set forth above in Table 1, he failed to comply with provisions of
18 California Code of Regulations, title 16, as follows:

19 a. Section 3340.30(a): Respondent Gomez failed to inspect and test those vehicles in
20 accordance with Health and Safety Code sections 44012.

21 b. Section 3340.42: Respondent Gomez failed to conduct the required smog tests and
22 inspections on those vehicles in accordance with the Bureau's specifications.

23 **EIGHTH CAUSE FOR DISCIPLINE**

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

25 27. Respondent Gomez's inspector license is subject to discipline pursuant to Health and
26 Safety Code section 44072.2(d), in that from December 14, 2013 through March 7, 2014,
27 regarding the vehicles set forth above in Table 1, he committed acts involving dishonesty, fraud
28

1 or deceit whereby another was injured by issuing electronic certificates of compliance without
2 performing bona fide inspections of the emission control devices and systems on those vehicles,
3 thereby depriving the People of the State of California of the protection afforded by the Motor
4 Vehicle Inspection Program.

5 **OTHER MATTERS**

6 28. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
7 probation the registrations for all places of business operated in this state by Silvino Posadas,
8 doing business as Baseline Smog, upon a finding that he has, or is, engaged in a course of
9 repeated and willful violation of the laws and regulations pertaining to an automotive repair
10 dealer.

11 29. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
12 Station License Number TC 274735, issued to Silvino Posadas, doing business as Baseline Smog,
13 is revoked or suspended, any additional license issued under this chapter in the name of said
14 licensee may be likewise revoked or suspended by the director.

15 30. Pursuant to Health and Safety Code section 44072.8, if Adam Andrew Gomez's
16 inspector license, currently designated as EO 636080 is revoked or suspended, any additional
17 license issued under this chapter in the name of said licensee may be likewise revoked or
18 suspended by the Director.

19 **PRAYER**

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

22 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD
23 274735, issued to Silvino Posadas, doing business as Baseline Smog;

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

26 3: Revoking or suspending Smog Check Test Only Station License Number TC
27 274735, issued to Silvino Posadas, doing business as baseline Smog;

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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 Silvino Posadas;
- 5. Revoking or suspending Adam Andrew Gomez's smog check inspector license EO 636080;
- 6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Adam Andrew Gomez;
- 7. Ordering Silvino Posadas and Adam Andrew Gomez to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 8. Taking such other and further action as deemed necessary and proper.

DATED: 7-22-14

Patrick Dorais by *Doug Balotti*
 PATRICK DORAIS
 Chief
 Bureau of Automotive Repair
 Department of Consumer Affairs
 State of California
Complainant
 Doug BALOTTI
 Assist. Chief

(rev.7/22/14)