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

In the Matter of the Accusation Against:

**SMOG 4 LESS
KARMJIT SINGH, OWNER
2240 N. Blackstone
Fresno, CA 93703**

**Automotive Repair Dealer Reg. No. ARD
268861
Smog Check, Test Only, Station License
No. TC 268861,**

**SMOG 4 LESS
KARMJIT SINGH, OWNER
1254 W. Clinton
Fresno, CA 93705**

**Automotive Repair Dealer Reg. No. ARD
268860
Smog Check, Test Only, Station License
No. TC 268860,**

and

**ARTHUR ADAM OSUNA
1508 South Sierra Vista Avenue
Fresno, CA 93702**

**Smog Repair Technician License No. EI
135509
Smog Check Inspector License No. EO
135509 (formerly Advanced Emission
Specialist Technician License No. EA 135509)**

Respondents.

Case No. 79/14-56

DEFAULT DECISION AND ORDER
(Respondent Arthur Adam Osuna Only)

[Gov. Code, §11520]

1 a. Respondent's Smog Repair Technician and Smog Check Inspector Licenses are
2 subject to discipline pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that
3 Respondent failed to comply with section 44012 of that Code in a material respect, as follows:
4 Respondent failed to perform the emission control tests on the 1990 Honda in accordance with
5 procedures prescribed by the department.

6 b. Respondent's Smog Repair Technician and Smog Check Inspector Licenses are
7 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in
8 that Respondent failed to comply with provisions of California Code of Regulations, title 16, as
9 follows:

10 i. Section 3340.30, subdivision (a): Respondent failed to inspect and test the
11 1990 Honda in accordance with Health & Saf. Code sections 44012 and 44035, and California
12 Code of Regulations, title 16, section 3340.42.

13 ii. Section 3340.41, subdivision (c): Respondent entered false information into the
14 EIS by entering vehicle identification information or emission control system identification data
15 for a vehicle other than the one being tested.

16 iii. Section 3340.42: Respondent failed to conduct the required smog tests on the
17 1990 Honda in accordance with the Bureau's specifications.

18 c. Respondent's Smog Repair Technician and Smog Check Inspector Licenses are
19 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
20 that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by
21 issuing an electronic smog certificate of compliance for the 1990 Honda without performing a
22 bona fide inspection of the emission control devices and systems on the vehicle, thereby
23 depriving the People of the State of California of the protection afforded by the Motor Vehicle
24 Inspection Program.

25 **ORDER**

26 **IT IS SO ORDERED** that Smog Repair Technician License No. EI 135509 and Smog
27 Check Inspector License No. EO 135509 (formerly Advanced Emissions Specialist Technician
28 License No. EA 135509), heretofore issued to Respondent Arthur Adam Osuna, is revoked.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 1049 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 19, 2014.
It is so ORDERED JAN 21 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

11245734.DOC
DOJ Matter ID:SA2013111960

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 KENT D. HARRIS
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:

Case No. **79/14-56**

13 **SMOG 4 LESS**
KARMJIT SINGH, OWNER
14 2240 N. Blackstone
Fresno, CA 93703

ACCUSATION

15 **Automotive Repair Dealer Reg. No. ARD 268861**
16 **Smog Check, Test Only, Station License**
17 **No. TC 268861,**

(Smog Check)

18 **SMOG 4 LESS**
KARMJIT SINGH
19 1254 W. Clinton
Fresno, CA 93705

20 **Automotive Repair Dealer Reg. No. ARD 268860**
21 **Smog Check, Test Only, Station License**
No. TC 268860,

22 and

23 **ARTHUR ADAM OSUNA**
24 1508 South Sierra Vista Avenue
Fresno, CA 93702

25 **Smog Repair Technician License No. EI 135509**
26 **Smog Check Inspector License No. EO 135509**
(formerly Advanced Emission Specialist
27 **Technician License No. EA 135509)**

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 **Smog 4 Less; Karmjit Singh, Owner; 2240 N. Blackstone Facility**

6 2. On or about April 26, 2012, the Director of Consumer Affairs ("Director") issued
7 Automotive Repair Dealer Registration Number ARD 268861 ("Registration No. ARD 268861")
8 to Karmjit Singh ("Respondent Singh"), owner of Smog 4 Less located at 2240 N. Blackstone,
9 Fresno, California. Registration No. ARD 268861 expired on April 30, 2013.

10 3. On or about May 2, 2012, the Director issued Smog Check, Test Only, Station
11 License Number TC 268861 ("Smog Check Station License No. 268861") to Respondent Singh.
12 Smog Check Station License No. 268861 expired on April 30, 2013.

13 **Smog 4 Less; Karmjit Singh, Owner; 1254 W. Clinton Facility**

14 4. On or about April 26, 2012, the Director issued Automotive Repair Dealer
15 Registration Number ARD 268860 to Respondent Singh, owner of Smog 4 Less located at 1254
16 W. Clinton, Fresno, California. The automotive repair dealer registration will expire on April 30,
17 2014, unless renewed.

18 5. On or about May 2, 2012, the Director issued Smog Check, Test Only, Station
19 License Number TC 268860 ("smog check station license") to Respondent Singh. The smog
20 check station license will expire on April 30, 2014, unless renewed.

21 **Arthur Adam Osuna**

22 6. In or about 1999, the Director issued Advanced Emission Specialist Technician
23 License Number EA 135509 to Arthur Adam Osuna ("Respondent Osuna"). Respondent's
24 advanced emission specialist technician license was due to expire on March 31, 2013. Pursuant
25 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
26 renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO 135509,
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1 effective March 26, 2013,¹ and Smog Repair Technician License No. EI 135509, effective April
2 25, 2013. Respondent's smog check inspector license will expire on March 31, 2015, unless
3 renewed, and his smog repair technician license will expire on March 31, 2015, unless renewed.

4 JURISDICTION

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

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

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

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

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

21 12. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
22 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
23 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
24 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

25 ///

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

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

2 17. Health & Saf. Code section 44072.10 states, in pertinent part:

3

4 (c) The department shall revoke the license of any smog check technician
5 or station licensee who fraudulently certifies vehicles or participates in the fraudulent
inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
6 the following:

7 (1) Clean piping, as defined by the department . . .

8 **COST RECOVERY**

9 18. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
10 the administrative law judge to direct a licentiate found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 **VIDEO SURVEILLANCE OPERATION OF FEBRUARY 27, 2013**

14 19. On February 27, 2013, at approximately 0708 hours, a representative of the Bureau
15 commenced a video surveillance operation of Respondent Singh's smog check facility located at
16 2240 N. Blackstone in Fresno, California. At approximately 0803 hours, a 2001 Honda Civic,
17 License No. 6JMH313 ("2001 Honda"), arrived at the facility. Respondent Osuna ("Osuna")
18 exited the vehicle, opened the west side service bay door, then drove the vehicle into the service
19 bay. The surveillance operation was concluded at approximately 1352 hours. Later, the
20 representative reviewed the surveillance video and information obtained from the Bureau's
21 vehicle information database ("VID"). The video and VID data revealed that between 0805 and
22 0816 hours, Osuna performed a smog inspection on a 1990 Honda Civic, License No. 6VUB185
23 ("1990 Honda"), resulting in the issuance of electronic smog Certificate of Compliance No.
24 XR377604C. In fact, Osuna conducted the inspection using the exhaust emissions of the 2001
25 Honda, a method known as clean piping², resulting in the issuance of a fraudulent smog

26 ² California Code of Regulations, title 16, section 3340, states, in pertinent part, that
27 "[c]lean piping' for the purposes of Health and Safety Code section 44072.10(c)(1), means the
28 use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in order
to cause the EIS to issue a certificate of compliance for the test vehicle".

1 certificate of compliance for the 1990 Honda.

2 20. On March 1, 2013, E. L. went to Osuna's residence (Osuna's address of record
3 herein) and observed the 2001 Honda parked in the driveway.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 21. Respondent Singh's Registration No. ARD 268861 is subject to disciplinary action
7 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or
8 authorized a statement which he knew or in the exercise of reasonable care should have known to
9 be untrue or misleading, as follows: Respondent Singh's technician, Respondent Osuna, certified
10 that the 1990 Honda had passed inspection and was in compliance with applicable laws and
11 regulations. In fact, Osuna used clean piping methods in order to issue a certificate for the
12 vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 22. Respondent Singh's Registration No. ARD 268861 is subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed
17 an act that constitutes fraud by issuing an electronic smog certificate of compliance for the 1990
18 Honda without ensuring that a bona fide inspection was performed of the emission control
19 devices and systems on the vehicle, thereby depriving the People of the State of California of the
20 protection afforded by the Motor Vehicle Inspection Program.

21 **THIRD CAUSE FOR DISCIPLINE**

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

23 23. Respondent Singh's Smog Check Station License No. TC 268861 is subject to
24 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that
25 Respondent failed to comply with provisions of that Code, as follows:

26 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
27 performed on the 1990 Honda in accordance with procedures prescribed by the department.
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1 bona fide inspection of the emission control devices and systems on the vehicle, thereby
2 depriving the People of the State of California of the protection afforded by the Motor Vehicle
3 Inspection Program.

4 **MATTERS IN AGGRAVATION**

5 29. To determine the degree of discipline, if any, to be imposed on Respondents Singh
6 and Osuna, Complainant alleges as follows:

7 **Respondent Singh**

8 a. On or about July 27, 2012, the Bureau issued Citation No. C2013-0101 against
9 Respondent Singh for violating Health & Saf. Code section 44012, subdivision (f) (failure to
10 perform a visual/functional check of emission control devices according to procedures prescribed
11 by the department). On or about June 7, 2012, Respondent had issued a certificate of compliance
12 to a Bureau undercover vehicle with a missing PCV valve. The Bureau assessed a civil penalty of
13 \$1,000 against Respondent for the violation. Respondent paid the fine on September 6, 2012.

14 **Respondent Osuna**

15 b. On or about September 4, 2007, the Bureau issued Citation No. M08-0195 against
16 Respondent Osuna for violations of Health & Saf. Code section 44032 (qualified technicians shall
17 perform tests of emission control systems and devices in accordance with Health & Saf. Code
18 section 44012); and California Code of Regulations, title 16, section ("Regulation") 3340.30,
19 subdivision (a) (qualified technicians shall inspect, test and repair vehicles in accordance with
20 Health & Saf. Code sections 44012 and 44035 and Regulation 3340.42). On or about August 29,
21 2007, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a
22 missing EGR valve. Respondent was directed to complete an 8 hour training course and to
23 submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent
24 completed the training on October 27, 2007.

25 c. On or about March 27, 2008, the Bureau issued Citation No. M08-0850 against
26 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall
27 perform tests of emission control systems and devices in accordance with Health & Saf. Code
28 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test

1 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
2 Regulation 3340.42). On or about March 19, 2008, Respondent issued a certificate of compliance
3 to a Bureau undercover vehicle with the ignition timing adjusted beyond specifications.
4 Respondent was directed to complete a 16 hour training course and to submit proof of completion
5 to the Bureau within 30 days from receipt of the citation. Respondent completed the training on
6 December 21, 2008.

7 d. On or about October 20, 2010, the Bureau issued Citation No. M2011-0491 against
8 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall
9 perform tests of emission control systems and devices in accordance with Health & Saf. Code
10 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test
11 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
12 Regulation 3340.42). On or about October 5, 2010, Respondent issued a certificate of
13 compliance to a Bureau undercover vehicle with a missing EGR valve. Respondent was directed
14 to complete a 16 hour training course and to submit proof of completion to the Bureau within 30
15 days from receipt of the citation. Respondent completed the training on January 12, 2011.

16 e. On or about July 27, 2012, the Bureau issued Citation No. M2013-0102 against
17 Respondent for violating Health & Saf. Code section 44032 (qualified technicians shall perform
18 tests of emission control systems and devices in accordance with Health & Saf. Code section
19 44012). On or about June 7, 2012, Respondent issued a certificate of compliance to a Bureau
20 undercover vehicle with a missing PCV valve. Respondent was directed to complete the Basic
21 Clean Air Car Course and to submit proof of completion to the Bureau within 30 days from
22 receipt of the citation. Respondent completed the training on November 26, 2012.

23 OTHER MATTERS

24 30. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
25 suspend, revoke, or place on probation the registration for all places of business operated in this
26 state by Respondent Karnjit Singh, including, but not limited to, Automotive Repair Dealer
27 Registration Number ARD 268861 and Automotive Repair Dealer Registration Number ARD
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1 268860, upon a finding that Respondent has, or is, engaged in a course of repeated and willful
2 violations of the laws and regulations pertaining to an automotive repair dealer.

3 31. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
4 License Number TC 268861, issued to Respondent Karmjit Singh, owner of Smog 4 Less, is
5 revoked or suspended, any additional license issued under this chapter in the name of said
6 licensee, including, but not limited to, Smog Check, Test Only, Station License Number
7 TC 268860, may be likewise revoked or suspended by the Director.

8 32. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
9 Number EO 135509 and/or Smog Repair Technician License EI 135509, issued to Respondent
10 Arthur Adam Osuna, are revoked or suspended, any additional license issued under this chapter in
11 the name of said licensee may be likewise revoked or suspended by the Director.

12 **PRAYER**

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

15 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
16 268861, issued to Karmjit Singh, owner of Smog 4 Less;

17 2. Revoking or suspending any other automotive repair dealer registration issued to
18 Karmjit Singh, including, but not limited to, Automotive Repair Dealer Registration Number
19 ARD 268860;

20 3. Revoking or suspending Smog Check, Test Only, Station License Number
21 TC 268861, issued to Karmjit Singh, owner of Smog 4 Less;

22 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
23 and Safety Code in the name of Karmjit Singh, including, but not limited to, Smog Check, Test
24 Only, Station License Number TC 268860;

25 5. Revoking or suspending Smog Check Inspector License Number EO 135509, issued
26 to Arthur Adam Osuna;

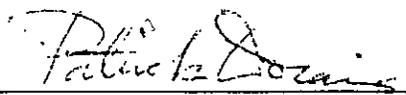
27 6. Revoking or suspending Smog Repair Technician License EI 135509, issued to
28 Arthur Adam Osuna;

1 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Arthur Adam Osuna;

3 8. Ordering Karmjit Singh, owner of Smog 4 Less, and Arthur Adam Osuna to pay the
4 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 9. Taking such other and further action as deemed necessary and proper.

7
8 DATED: November 15, 2013


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

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