

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

In the Matter of the Accusation Against:

SHAHZAD MARK

5 The Trees Drive

Concord, CA 94518

Smog Check Inspector No. EO 136985

Respondent.

Case No. 79/17-1202

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on May 25, 2021.

DATED: April 6, 2021



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

12
13 In the Matter of the Accusation Against:

Case No. 79/17-1202

14 **SHAHZAD MARK**
15 **5 The Trees Drive**
Concord, CA 94518

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

16 **Smog Check Inspector License No. EO 136985**

17 Respondents.
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 by
24 Xavier Becerra, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney
25 General.

26 2. Respondent Shahzad Mark (Respondent) is representing himself in this proceeding
27 and has chosen not to exercise his right to be represented by counsel.
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1. In 2003, the Bureau issued Advanced Emission Specialist Technician License Number EA 136985 Respondent. The Advanced Emission Specialist Technician License expired on January 31, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check Inspector License Number EO 136985; effective January 31, 2013. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2023, unless renewed.

JURISDICTION

3. Accusation No. 79/17-1202 was filed before the Director of the Department of Consumer Affairs (Bureau), for the Bureau of Automotive Repair, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 22, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 79/17-1202 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 79/17-1202. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 79/17-1202, if proven at a hearing, constitute cause for imposing discipline upon his Smog
4 Check Inspector License.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Eighth Cause for Discipline (specifically paragraph 51, subdivisions
8 (a), (b), (c), (e), (f-first sentence), (g) and (h)) in the Accusation, and that Respondent hereby
9 gives up his right to contest those charges. Respondent denies he committed any fraud,
10 dishonesty, or deceit.

11 10. Respondent agrees that his Smog Check Inspector License is subject to discipline and
12 agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order
13 below.

14 **CIRCUMSTANCES IN MITIGATION**

15 11. Respondent has provided significant mitigation in the matter. Respondent has
16 provided significant additional evidence, not available to the Bureau at the time of the filing of
17 the Accusation, that demonstrates, to the Bureau's satisfaction, that Respondent's conduct was the
18 result of negligence and inattention and not due to willful fraud.

19 **CONTINGENCY**

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

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

6 14. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary
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 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Smog Check Inspector License Number EO 136985 issued
17 to Respondent Shahzad Mark is revoked. However, the revocation is stayed and Respondent is
18 placed on probation for one (1) year on the following terms and conditions:

19 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all
20 federal and state statutes, regulations and rules governing all BAR registrations and licenses held
21 by Respondent.

22 2. **Quarterly Reporting.** During the period of probation, Respondent shall report either
23 by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no
24 more frequently than once each calendar quarter, on the methods used and success achieved in
25 maintaining compliance with the terms and conditions of probation.

26 3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date
27 of the decision and within 30 days from the date of any request by BAR during the period of
28 probation, report any financial interest which any Respondent or any partners, officers, or owners

1 of any Respondent facility may have in any other business required to be registered pursuant to
2 Section 9884.6 of the Business and Professions Code.

3 4. **Access to Examine Vehicles and Records.** Respondent shall provide BAR
4 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
5 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
6 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

7 5. **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of
8 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
9 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
10 and return, and of the dates of cessation and resumption of business in California. All provisions
11 of probation other than cost reimbursement requirements, restitution requirements, training
12 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of
13 time of 30 days or more in which Respondent is not residing or engaging in business within the
14 jurisdiction of California. All provisions of probation shall recommence on the effective date of
15 resumption of business in California. Any period of time of 30 days or more in which Respondent
16 is not residing or engaging in business within the jurisdiction of California shall not apply to the
17 reduction of this probationary period or to any period of actual suspension not previously
18 completed. Tolling is not available if business or work relevant to the probationary license or
19 registration is conducted or performed during the tolling period.

20 6. **Violation of Probation.** If Respondent violates or fails to comply with the terms and
21 conditions of probation in any respect, the Director, after giving notice and opportunity to be
22 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
23 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain
24 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

25 7. **Maintain Valid License.** Respondent shall, at all times while on probation, maintain
26 a current and active registration and/or license(s) with BAR, including any period during which
27 suspension or probation is tolled. If Respondent's registration or license is expired at the time the
28 decision becomes effective, the registration or license must be renewed by Respondent within 30

1 days of that date. If Respondent's registration or license expires during a term of probation, by
2 operation of law or otherwise, then upon renewal Respondent's registration or license shall be
3 subject to any and all terms and conditions of probation not previously satisfied. Failure to
4 maintain a current and active registration and/or license during the period of probation shall also
5 constitute a violation of probation.

6 **8. Completion of Probation.** Upon successful completion of probation, Respondent's
7 affected registration and/or license will be fully restored or issued without restriction, if
8 Respondent meets all current requirements for registration or licensure and has paid all
9 outstanding fees, monetary penalties, or cost recovery owed to BAR.

10 **9. License Surrender.** Following the effective date of a decision that orders a stay of
11 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
12 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
13 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
14 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
15 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
16 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
17 provided in the decision. Respondent may not petition the Director for reinstatement of the
18 surrendered registration and/or license, or apply for a new registration or license under the
19 jurisdiction of BAR at any time before the date of the originally scheduled completion of
20 probation. If Respondent applies to BAR for a registration or license at any time after that date,
21 Respondent must meet all current requirements for registration or licensure and pay all
22 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

23 **10. Training Course**

24 During the period of probation, Respondent shall attend and successfully complete a 28
25 hour BAR-specified and -approved training course in inspection, diagnosis and/or repair of
26 emission systems failures and engine performance, applicable to the class of license held by the
27 Respondent. Respondent shall provide to the Bureau proof of enrollment in the course within 90
28 days of the effective date of the decision, and proof of successful course completion within six

1 months of the effective date of the decision. Failure to provide proof of enrollment and/or
2 successful course completion to the Bureau within the timeframes specified shall constitute a
3 violation of probation, and Respondent shall be prohibited from issuing any certificate of
4 compliance or noncompliance until such proof is received.

5 **11. Notification to Employer**

6 When performing services that fall within the scope of his or her license, Respondent shall
7 provide each of his or her current or future employers a copy of the decision and the underlying
8 Accusation or Statement of Issues before commencing employment. Notification to Respondent's
9 current employer shall occur no later than the effective date of the decision. Respondent shall
10 submit to BAR, upon request, satisfactory evidence of compliance with this term of probation.

11 **FURTHER ORDER**

12 16. Based on the new evidence provided by Respondent and in the interest of justice,
13 IT IS HEREBY ORDERED that the Ninth cause for discipline and the following sections of the
14 Eighth Cause for discipline are dismissed: Paragraph 51, Subdivision (d); Paragraph 51,
15 subdivision (f) (second sentence only).

16 **ACCEPTANCE**

17 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
18 stipulation and the effect it will have on my Smog Check Inspector License. I enter into this
19 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
20 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

21
22 DATED: 12-23-20


23 SHAZAD MARK
24 Respondent

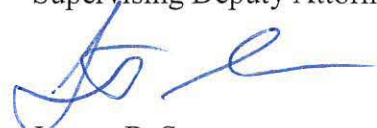
25 **ENDORSEMENT**

26 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
27 submitted for consideration by the Director of the Department of Consumer Affairs.
28

1 DATED: 12/30/20

Respectfully submitted,

2 XAVIER BECERRA
3 Attorney General of California
4 CHAR SACHSON
5 Supervising Deputy Attorney General



6 JUSTIN R. SURBER
7 Deputy Attorney General
8 *Attorneys for Complainant*

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