

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

In the Matter of the Petition to Revoke Probation Against:

ALVARO J. HERRADOR

927 E. 52nd Place

Los Angeles, CA 90011

Smog Check Inspector License No. EO 153673

Smog Check Repair Technician License No. EI 153673

Respondent.

Case No. 79/20-12812

OAH No. 2021070575

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.

MAR 10 2022

This Decision shall become effective on _____.

DATED: _____

January 19, 2022



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

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Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
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7

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 Petition to Revoke
Probation Against:

14 **ALVARO J. HERRADOR**
15 **927 E. 52nd Place**
16 **Los Angeles, CA 90011**

17 **Smog Check Inspector License No. EO**
18 **153673**
Smog Check Repair Technician License No.
19 **EI 153673**

20 Respondent.

Case No. 79/20-12812

OAH No. 2021070575

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

23 **PARTIES**

24 1. Patrick Dorais (complainant) is the Chief of the Bureau of Automotive Repair
25 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
26 Rob Bonta, Attorney General of the State of California, by Andrew Amara, Deputy Attorney
27 General.
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2. Respondent Alvaro J. Herrador (respondent) is represented in this proceeding by attorney William D. Ferreira, whose address is: 580 California Street, Suite 1200 San Francisco, CA 94104-1071

3. On or about December 5, 2012, the Bureau issued Smog Check Inspector License No. EO 153673 to respondent. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 79/20-12812, and will expire on February 28, 2023, unless renewed.

4. On or about December 5, 2012, the Bureau issued Smog Check Repair Technician License No. EI 153673 to respondent. The Smog Check Repair Technician License expired on February 28, 2015, and has not been renewed.

JURISDICTION

5. Petition to Revoke Probation No. 79/20-12812 was filed before the Director of the Department of Consumer Affairs (Director), and is currently pending against respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on respondent on or about April 20, 2021. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation.

6. A copy of Petition to Revoke Probation No. 79/20-12812 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. 79/20-12812. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; 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;

1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 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 Petition to
7 Revoke Probation No. 79/20-12812.

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

11 **CONTINGENCY**

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

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

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

Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 153673 issued, and Smog Check Repair Technician License No. EI 153673 to respondent is revoked. However, the revocations are stayed and respondent is placed on probation for one (1) year on the following terms and conditions: This Order is to run consecutive to, and shall take effect immediately upon completion of the probationary order in case no. 79/17-9192.

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

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

3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

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

5. **Tolling of Probation.** If, during probation, respondent leaves the jurisdiction of

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

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

18 **7. Maintain Valid License.** Respondent shall, at all times while on probation,
19 maintain a current and active registration and/or license(s) with BAR, including any period during
20 which suspension or probation is tolled. If respondent's registration or license is expired at the
21 time the decision becomes effective, the registration or license must be renewed by respondent
22 within 30 days of that date. If respondent's registration or license expires during a term of
23 probation, by operation of law or otherwise, then upon renewal respondent's registration or
24 license shall be subject to any and all terms and conditions of probation not previously satisfied.
25 Failure to maintain a current and active registration and/or license during the period of probation
26 shall also constitute a violation of probation.

27 **8. Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$2,500.00
28 for the reasonable costs of the investigation and enforcement of case No. 79/20-12812. Any

1 agreement for a scheduled payment plan shall require full payment to be completed no later than
2 six (6) months before probation terminates. Respondent shall make payment by check or money
3 order payable to the Bureau of Automotive Repair and shall indicate on the check or money order
4 that it is for cost recovery payment for case No. 79/20-12812. Any order for payment of cost
5 recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate
6 until full cost recovery payment has been made. BAR reserves the right to pursue any other
7 lawful measures in collecting on the costs ordered and past due, in addition to taking action based
8 upon the violation of probation.

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

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

26 **11. Actual Suspension.** Smog Check Inspector License No. EO 153673 issued to
27 respondent is suspended for fifteen (15) consecutive days beginning on the effective date of the
28 Decision and Order.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, William D. Ferreira. I understand the stipulation and the effect it will have on my Smog Check Inspector License, and Smog Check Repair Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: December 17, 2021

Signature on File

ALVARO J. HERRADOR
Respondent

I have read and fully discussed with Respondent Alvaro J. Herrador the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: December 17, 2021

Signature on File

WILLIAM D. FERREIRA
Attorney for Respondent

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ENDORSEMENT

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

DATED: December 28, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

Signature on File

ANDREW AMARA
Deputy Attorney General
Attorneys for Complainant

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