

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

In the Matter of the Accusation Against:

ERIC ANGELO TAVARES

705 E. Francis St.

Corona, CA 92879

Smog Check Inspector No. EO 636663

Respondent.

Case No. 79/19-15089

OAH No. 2020060460

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 March 2, 2021

DATED: 1/25/21

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

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 LANGSTON M. EDWARDS
Deputy Attorney General
4 State Bar No. 237926
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6371
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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 Accusation Against:

14 **ERIC ANGELO TAVARES**
15 **705 E. Francis St.**
Corona, CA 92879

16 **Smog Check Inspector License No. EO**
17 **636663**

18 Respondent.

Case No. 79/19-15089

OAH No. 2020060460

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19
20
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 Xavier Becerra, Attorney General of the State of California, by Langston M. Edwards, Deputy
27 Attorney General.

28 ///

2. Respondent Eric Angelo Tavares (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about March 24, 2014, the Director of the Department of Consumer Affairs (Bureau) issued Smog Check Inspector License No. EO 636663 to Eric Angelo Tavares(Respondent). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/19-15089, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 79/19-15089 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 9, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 79/19-15089 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 79/19-15089. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 79/19-15089.

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

7 **CONTINGENCY**

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

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

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

27 ///

28 ///

14. 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 636663 issued to Respondent Eric Angelo Tavares is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

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. **Posting of Sign.** During the period of suspension, Respondent shall prominently post a sign or signs, provided by BAR, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign or signs shall be conspicuously displayed in a location or locations open to and frequented by customers. The location(s) of the sign(s) shall be approved by BAR and shall remain posted during the entire period of actual suspension.

3. **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.

4. **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.

5. **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.

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

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

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

28 ///

1 9. **Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$11,476.67
2 for the reasonable costs of the investigation and enforcement of case No. 79/19-15089.
3 Respondent shall make such payment in a payment schedule to be provided by the Bureau of
4 Automotive Repair. Any agreement for a scheduled payment plan shall require full payment to be
5 completed no later than six (6) months before probation terminates. Respondent shall make
6 payment by check or money order payable to the Bureau of Automotive Repair and shall indicate
7 on the check or money order that it is for cost recovery payment for case No. 79/19-15089. Any
8 order for payment of cost recovery shall remain in effect whether or not probation is tolled.
9 Probation shall not terminate until full cost recovery payment has been made. BAR reserves the
10 right to pursue any other lawful measures in collecting on the costs ordered and past due, in
11 addition to taking action based upon the violation of probation.

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

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

1 12. **Actual Suspension.** Smog Check Inspector License No. EO 636663 issued to
2 Respondent Eric Angelo Tavares is suspended for thirty (30) consecutive days beginning on the
3 effective date of the Decision and Order.

4 13. **Training Course.** During the period of probation, Respondent shall attend and
5 successfully complete a sixty-eight (68) hour BAR-specified and-approved training course in
6 inspection, diagnosis and/or repair of emission systems failures and engine performance,
7 applicable to smog check technicians. Respondent shall provide to the Bureau proof of
8 enrollment in the course within 6 months of the effective date of the decision, and proof of
9 successful course completion within 360 days of the effective date of the decision. Failure to
10 provide proof of enrollment and/or successful course completion to the Bureau within the
11 timeframes specified shall constitute a violation of probation, and Respondent shall be prohibited
12 from issuing any certificate of compliance or noncompliance until such proof is received.

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

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Smog Check Inspector 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: 12/9/20

Signed copy on file

ERIC ANGELO TAVARES
Respondent

ENDORSEMENT

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

DATED: 12/9/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

Signed copy on file

LANGSTON M. EDWARDS
Deputy Attorney General
Attorneys for Complainant

LA2020500386
63814283.docx