

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

In the Matter of the Statement of Issues Against:

STANLEY EMMANUEL GUEVARA

Applicant for Smog Check Inspector
License and Smog Check Repair Technician
License

Respondent.

Case No. 79/09-44s

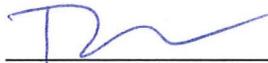
OAH No. 2014010983

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 December 31, 2014.

DATED: December 5, 2014



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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2 THOMAS L. RINALDI
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:
13 **STANLEY EMMANUEL GUEVARA**
14 **Applicant for Smog Check Inspector**
15 **License and Smog Check Repair Technician**
16 **License**
17 Respondent.

Case No. 79/09-44s
OAH No. 2014010983
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

- 21 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
22 brought this action solely in his official capacity and is represented in this matter by Kamala D.
23 Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney General.
24 2. Respondent Stanley Emmanuel Guevara (Respondent) is represented in this
25 proceeding by attorney Larry L. Nash, whose address is: 19355 Business Center Drive, Suite 3
26 Northridge, California 91324.

27 ///
28 ///

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

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that the Bureau will allow Respondent to apply for Initial
8 Smog Check Inspector and Smog Check Repair Technician Licenses and upon meeting all pre-
9 licensure requirements, Applications for Smog Check Inspector and Smog Check Repair
10 Technician Licenses, filed by Respondent Stanley Emmanuel Guevara will be granted, the
11 licenses issued and immediately revoked. The revocation will be stayed and Respondent's
12 licenses is placed on three (3) years probation on the following terms and conditions:

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

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

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

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

25 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of
26 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
27 until the final decision on the accusation, and the period of probation shall be extended until such
28 decision.

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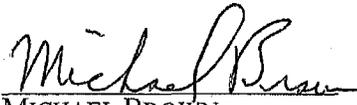
ENDORSEMENT

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

Dated: October 28, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General


MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 79/09-44s

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2 KAREN B. CHAPPELLE
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3 MICHAEL BROWN
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7 Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 79/09-44s

13 **STANLEY EMMANUEL GUEVARA**

STATEMENT OF ISSUES

14 **Advanced Emission Specialist Technician**
15 **License Applicant**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Patrick Dorais (Complainant) brings this Statement of Issues solely in his official
21 capacity as the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer
22 Affairs.

23 2. On or about May 23, 2012, the Bureau of Automotive Repair received an application
24 for an Advanced Emission Specialist Technician License from Stanley Emmanuel Guevara
25 (Respondent). On or about May 17, 2012, Respondent certified under penalty of perjury to the
26 truthfulness of all statements, answers, and representations in the application. The Bureau denied
27 the application on December 26, 2012.

28 ///

1 PRIOR LICENSE INFORMATION

2 **Advanced Emission Specialist Technician License No. EA 153826**

3 3. On a date uncertain in 2006, the Bureau issued Advanced Emission Specialist
4 Technician License Number EA 153826 to Respondent.

5 PRIOR DISCIPLINE

6 4. Effective December 29, 2009, pursuant to the Decision in First Amended Accusation
7 Number 79/09-44, attached hereto as Exhibit "A" and incorporated herein by reference,
8 Respondent's Advanced Emission Specialist Technician License Number EA153826 was
9 permanently revoked.

10 5. On or about October 12, 2009, First Amended Accusation, Case No. 79/09-44, was
11 filed against Respondent's Advanced Emission Specialist License. The First Amended
12 Accusation resulted from an on site inspection and a videotaped surveillance of Quick Smog Test
13 Only that was initiated by the Bureau.

14 SITE INSPECTION - OCTOBER 5, 2007

15 6. On or about October 5, 2007, the Bureau conducted a site inspection at Quick Smog
16 Test Only. The inspection and information obtained from the Bureau's Vehicle Information
17 Database (VID) revealed that Respondent performed a smog inspection resulting in the issuance
18 of an illegal electronic certificate of compliance, certifying that he had tested and inspected the
19 vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact,
20 Respondent performed the smog inspections using the "clean plugging"¹ method by using the tail
21 pipe emissions of a vehicle other than the vehicle being certified in order to issue the certificate of
22 compliance. The vehicle certified was not in the test bay at the time of the smog inspection.

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26 _____
27 ¹ "Clean-plugging" is sampling the (clean) tailpipe emissions and/or the RPM readings of
28 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
compliance or are not present in the smog check area during the time of the certification.

1 VIDEO SURVEILLANCE OPERATION

2 NOVEMBER 6, 2007

3 7. On or about November 6, 2007, the Bureau performed a videotaped surveillance at
4 Quick Smog Test Only. The surveillance operation and information obtained from the Emission
5 Inspection System (EIS) unit and the Bureau's VID revealed that Respondent performed eight (8)
6 smog inspections, which resulted in the issuance of six (6) illegal electronic certificates of
7 compliance certifying that he had tested and inspected and that those vehicles were in compliance
8 with applicable laws and regulations. In fact, Respondent performed the smog inspections using
9 the "clean-piping" method by using the tail pipe emissions of a vehicle other than the vehicle
10 being certified in order to issue the certificate of compliance. None of the vehicles certified were
11 in the test bay at the time of the smog inspection.

12 JURISDICTION

13 8. This Statement of Issues is brought before the Director of Consumer Affairs
14 (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

15 STATUTORY PROVISIONS

16 9. Section 480 of the Business and Professions Code (Code) states:

17 "(a) A board may deny a license regulated by this code on the grounds that the
18 applicant has one of the following:

19 "(1) Been convicted of a crime. A conviction within the meaning of this section
20 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
21 that a board is permitted to take following the establishment of a conviction may be taken when
22 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or
23 when an order granting probation is made suspending the imposition of sentence, irrespective of a
24 subsequent order under the provisions of Section 1203.4 of the Penal Code.

25 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to
26 substantially benefit himself or herself or another, or substantially injure another.

27 "(3) (A) Done any act that if done by a licentiate of the business or profession in
28 question, would be grounds for suspension or revocation of license.

1 “(c) A board may deny a license regulated by this code on the ground that the applicant
2 knowingly made a false statement of fact required to be revealed in the application for the
3 license.”

4 10. Section 9889.1 of the Business and Professions Code (“Code”) provides, in pertinent
5 part, that the Director may refuse to issue a license to any applicant for the reasons set forth in
6 Code section 9889.2.

7 11. Section Code section 9889.2 states:

8 “The director may deny a license if the applicant or any partner, officer, or director thereof:

9 ...

10 “(b) Was previously the holder of a license issued under this chapter which license has been
11 revoked and never reissued or which license was suspended and the terms of the suspension have
12 not been fulfilled.

13 “(c) Has committed any act which, if committed by any licensee, would be grounds for the
14 suspension or revocation of a license issued pursuant to this chapter.

15 “(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is
16 injured or whereby the applicant has benefited.

17 ...

18 “(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been
19 convicted of a crime substantially related to the qualifications, functions and duties of the license
20 holder in question, and the time for appeal has elapsed or the judgment of conviction has been
21 affirmed on appeal, irrespective of an order granting probation following such conviction,
22 suspending the imposition of sentence, or of a subsequent order under the provisions of Section
23 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea
24 of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or
25 information.”

26 12. Section 44072 of the Health and Safety Code provides, in pertinent part, that the
27 director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1.

28 ///

1 13. Section 44072.1 of the Health and Safety Code states:

2 "The director may deny a license if the applicant, or any partner, officer, or director thereof,
3 does any of the following:

4 ...

5 "(b) Was previously the holder of a license issued under this chapter [the Motor Vehicle
6 Inspection Program (Health and Saf. Code, ' 44000, et seq.)], which license has been revoked and
7 never reissued or which license was suspended and the terms of the suspension have not been
8 fulfilled.

9 "(c) Has committed any act which, if committed by any licensee, would be grounds for the
10 suspension or revocation of a license issued pursuant to this chapter.

11 "(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is
12 injured or whereby the applicant has benefitted.

13 ...

14 "(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been
15 convicted of a crime substantially related to the qualifications, functions, and duties of the
16 licenseholder in question, and the time for appeal has elapsed or the judgment of conviction has

17 been affirmed on appeal, irrespective of an order granting probation following the conviction,
18 suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal
19 Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting
20 aside the plea or verdict of guilty, or dismissing the accusation or information."

21 14. Section 44002 of the Health and Safety Code provides, in pertinent part; that the
22 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
23 the Motor Vehicle Inspection Program.

24 **FIRST CAUSE FOR DENIAL OF APPLICATION**

25 (Previously Revoked License)

26 15. Respondent's application for smog check technician license is subject to denial
27 pursuant to Code section 9889.2, subdivision (b) and Health and Safety Code section 44072.1,
28 subdivision (b), in that Respondent was previously the holder of Advanced Emission Specialist

1 Technician License Number EA 153826, which license was permanently revoked pursuant to the
2 Decision in First Amended Accusation Number 79/09-44, as more particularly set forth in Exhibit
3 A, attached hereto.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 (Acts if Committed by a Licentiate Constitute Grounds for Discipline)

6 16. Respondent's application for smog check technician license is subject to denial
7 pursuant to Code section 480, subdivision (a)(3)(A), 9889.2, subdivision (c) and Health and
8 Safety Code section 44072.1, subdivision (c), in that Respondent committed acts which if
9 committed by any licensee would be grounds for suspension or revocation of a license issued by
10 this chapter, as more particularly set forth in First Amended Accusation Number 79/09-44.

11 **THIRD CAUSE FOR DENIAL OF APPLICATION**

12 (Acts Constituting Dishonesty, Fraud or Deceit)

13 17. Respondent's application for smog check technician license is subject to denial
14 pursuant to Code section 480, subdivision (a)(2), 9889.2, subdivision (d) and Health and Safety
15 Code section 44072.1, subdivision (d), in that Respondent committed acts involving dishonesty,
16 fraud or deceit, as more particularly set forth in First Amended Accusation Number 79/09-44.

17 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

18 (Conviction of Substantially Related Crime)

19 18. Respondent's application for smog check technician license is subject to denial
20 pursuant to Code section 480, subdivision (a)(1), 9889.2, subdivision (f) and Health and Safety
21 Code section 44072.1, subdivision (f) in that Respondent was convicted of a crime substantially
22 related to the qualifications, functions or duties of an Advanced Emission Specialist Technician.

23 The circumstances are as follows:

24 a. On or about May 27, 2009, in the criminal proceeding entitled *the People of the State*
25 *of California vs. Stanley Emmanuel Guevara* in the Superior Court, County of Los Angeles,
26 California, Case No. BA348714, Respondent was convicted by a plea of guilty of a violation of
27 Penal Code section 502(C)(1), (computer crimes). The circumstances of this crime are that
28 Respondent used a computer to defraud and wrongfully control or obtain money, property or data

1 in doing illegal smog checks on November 6, 2007, as set forth in more detail in Paragraph 7.
2 above. The Court sentenced Respondent to three years of probation, to perform community
3 service, to pay restitution and fines to the court, and to comply with other terms and conditions.

4 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

5 **(Knowingly Made a False Statement)**

6 19. Respondent's application for smog check technician license is subject to denial
7 pursuant to Code section 480, subdivision (c), in that Respondent knowingly made a false
8 statement of fact required to be revealed in the application of a smog check technician license.
9 Respondent was ordered to pay the Bureau its cost of investigation in the amount of \$9,804.50
10 upon application for reinstatement or for any new registration or license. Respondent did not
11 reveal on his smog check technician license application that he owed a balance of \$9,804.50 that
12 must be paid before a smog check technician license is issued.

13 **PRAYER**

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

- 16 1. Denying the application of Stanley Emmanuel Guevara for a Advanced Emission
17 Specialist Technician License; and
18 2. Taking such other and further action as deemed necessary and proper.

19 DATED: November 15, 2013


20 PATRICK DORAIS
21 Chief
22 Bureau of Automotive Repair
23 Department of Consumer Affairs
24 State of California
25 Complainant

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Exhibit A

**Decision in First Amended Accusation
No. 79/09-44s**

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

In the Matter of the Accusation Against:

QUICK SMOG TEST ONLY
JORGE LUIS SOTO, Owner
14525 Nordoff Street
Panorama City, CA 91402

Automotive Repair Dealer Registration
No. ARD 250690
Smog Check Station License No. TC 250690

JORGE LUIS SOTO
1624 8TH Street
San Fernando, California 91340

Advanced Emission Specialist Technician
License No. EA 152882

STANLEY EMMANUEL GUEVARA
8809 Etiwanda Ave., #23
Northridge, California 91325

Advanced Emission Specialist Technician
License No. EA 153826

Respondents.

Case No. 79/09-44

OAH No. L-2009060217

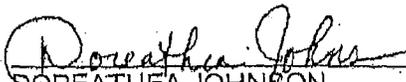
DECISION

The attached Stipulated Revocation 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 only as to respondent Stanley Emmanuel Guevara, Advanced Emission Specialist Technician License No. EA 153826.

This Decision shall become effective _____

12/29/09

DATED: November 23, 2009


DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs