

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

In the Matter of the Accusation Against:

ADVANCED SMOG LLC, dba ADVANCED SMOG; HECTOR MANUEL RIVERA,

MEMBER

13718 Old 215 Frontage Road, #B

Moreno Valley, CA 92553

Automotive Repair Dealer Registration No. ARD 285796

Smog Check Test Only Station License No. TC 285796

and

JOSEPH PAUL MARTINEZ

27738 Moonridge Drive

Sun City, CA 92585

Smog Check Inspector License No. EO 641473

Respondents.

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Case No. 79/22-10900

OAH No. 2023060537

DECISION

The attached Stipulated Settlement and Disciplinary Order as to Joseph Paul Martinez only 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 November 28, 2023.

DATED: October 11, 2023

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

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Attorney General of California
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8

9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
12 **STATE OF CALIFORNIA**
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14 In the Matter of the Accusation Against:

15 **ADVANCED SMOG LLC,**
16 **DBA ADVANCED SMOG; HECTOR**
17 **MANUEL RIVERA, MEMBER**
13718 Old 215 Frontage Road, #B
Moreno Valley, CA 92553

18 **Automotive Repair Dealer Registration No.**
ARD 285796
19 **Smog Check, Test Only Station No. TC**
285796,

20 **and**

21 **JOSEPH PAUL MARTINEZ**
22 **27738 Moonridge Drive**
Sun City, CA 92585

23 **Smog Check Inspector No. EO 641473**
24

25 Respondents.

Case No. 79/22-10900

OAH No. 2023060537

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO JOSEPH
PAUL MARTINEZ ONLY

26
27 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
28 entitled proceedings that the following matters are true:

1 **PARTIES**

2 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
3 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Dionne Mochon, Deputy Attorney
5 General.

6 2. Respondent Joseph Paul Martinez (Respondent) is represented in this proceeding by
7 attorney William D. Ferreira Esq., whose address is 580 California Street, Suite 1200, San
8 Francisco, CA 94104.

9 3. On or around October 19, 2018, the Bureau issued Smog Check Inspector Number
10 EO 641473 to Respondent. The Smog Check Inspector license was in full force and effect at all
11 times relevant to the charges brought herein and will expire on November 30, 2024 unless
12 renewed.

13 **JURISDICTION**

14 4. Accusation No. 79/22-10900 was filed before the Director of the Department of
15 Consumer Affairs (Director), and is currently pending against Respondent. The Accusation and all
16 other statutorily required documents were properly served on Respondent on February 3, 2023.
17 Respondent timely filed its Notice of Defense contesting the Accusation.

18 5. A copy of Accusation No. 79/22-10900 is attached as Exhibit A and incorporated
19 herein by reference.

20 **ADVISEMENT AND WAIVERS**

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in Accusation No. 79/22-10900. Respondent has also carefully read, fully
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
24 Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
27 the witnesses against them; the right to present evidence and to testify on his own behalf; the right
28 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.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/22-10900.

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

CONTINGENCY

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

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

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 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.

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 Inspector Number EO 641473 is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **Actual Suspension.** Smog Inspector License Number EO 641473 issued to Respondent Joseph Paul Martinez is suspended for ten (10) consecutive days beginning the effective date of the Decision and Order.

2. **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.

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. **Notification to Employer.** When performing services that fall within the scope of his license, Respondent shall provide each of his current or future employers a copy of the decision and the underlying Accusation 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.

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

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

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

1 constitute a violation of probation.

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

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

19 11. **Training Course.** During the period of probation, Respondent shall attend and
20 successfully complete a 72 hour BAR-specified and -approved training course in inspection,
21 diagnosis and/or repair of emission systems failures and engine performance, applicable to the
22 class of license held by the Respondent. Respondent shall provide to the Bureau proof of
23 enrollment in the course within 30 days of the effective date of the decision, and proof of
24 successful course completion within 180 days of the effective date of the decision. Failure to
25 provide proof of enrollment and/or successful course completion to the Bureau within the
26 timeframes specified shall constitute a violation of probation, and Respondent shall be prohibited
27 from issuing any certificate of compliance or noncompliance until such proof is received.

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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 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: 9/27/23 Original signature on file
JOSEPH PAUL MARTINEZ
Respondent

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

DATED: 9/27/23 Original signature on file
William D. Ferreira
Attorney for 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: 9/27/23 Respectfully submitted,
ROB BONTA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

Original signature on file
DIONNE MOCHON
Deputy Attorney General
Attorneys for Complainant

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