

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

In the Matter of Accusation Against:

JERRY LAWRENCE RATCLIFFE, II

2572 E. Washington St.

Carson, CA 90810

Smog Check Inspector No. EO 637441

and

NOEL MODESTO

7660 Wadsworth Ave.

Los Angeles, CA 90001

Smog Check Inspector No. EO 641581

Respondents.

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Case No. 79/19-13642

DECISION

The attached Stipulated Settlement and Disciplinary Order as to Respondent Noel Modesto only 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 April 2, 2021.

DATED: February 24, 2021

Signature on file

GRACE ARUPO RODRIGUEZ

Assistant Deputy Director

Legal Affairs Division

Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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**

12
13 In the Matter of the Accusation Against:

Case No. 79/19-13642

14 **JERRY LAWRENCE RATCLIFFE, II**
15 2572 E. Washington St.
Carson, CA 90810

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT NOEL MODESTO,
SMOG CHECK INSPECTOR LICENSE
NO. EO 641581**

16 Smog Check Inspector License No. EO
637441,

17 and

18 **NOEL MODESTO**
19 7660 Wadsworth Ave.
Los Angeles, CA 90001

20 Smog Check Inspector License No. EO 641581

21 Respondents.
22

23
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
25 entitled proceedings that the following matters are true:

26 **PARTIES**

27 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
28 (Bureau). He brought this action solely in his official capacity and is represented in this matter by

1 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
2 General.

3 2. Respondent Noel Modesto (Respondent) is representing himself in this proceeding
4 and has chosen not to exercise his right to be represented by counsel.

5 3. On or about December 7, 2018, the Bureau of Automotive Repair issued Smog Check
6 Inspector License Number EO 641581 to Respondent. The Smog Check Inspector License was in
7 full force and effect at all times relevant to the charges brought herein and will expire on August
8 31, 2022, unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 79/19-13642 was filed before the Director, and is currently pending
11 against Respondent. The Accusation and all other statutorily required documents were properly
12 served on Respondent on May 7, 2020. Respondent timely filed his Notice of Defense contesting
13 the Accusation.

14 5. A copy of Accusation No. 79/19-13642 is attached as exhibit A and incorporated
15 herein by reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, and understands the charges and allegations in
18 Accusation No. 79/19-13642. Respondent has also carefully read, and understands the effects of
19 this Stipulated Settlement and Disciplinary Order.

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

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

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 79/19-13642, if proven at a hearing, constitute cause for imposing discipline upon his Smog
4 Check Inspector License.

5 10. 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 Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

12 **CONTINGENCY**

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

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

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

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 641581 issued to
9 Noel Modesto is revoked.

10 1. The revocation of Respondent's Smog Check Inspector's License shall constitute the
11 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
12 and shall become a part of Respondent's license history with the Bureau.

13 2. Respondent shall lose all rights and privileges as a Smog Check Inspector in
14 California as of the effective date of the Director's Decision and Order.

15 3. Respondent shall cause to be delivered to the Bureau his wall license certificate and if
16 issued, pocket license on or before the effective date of the Decision and Order.

17 4. If Respondent ever files an application for licensure or a petition for reinstatement in
18 the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must
19 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
20 effect at the time the petition is filed, and all of the charges and allegations contained in
21 Accusation No. 79/19-13642 shall be deemed to be true, correct and admitted by Respondent
22 when the Bureau determines whether to grant or deny the petition.

23 5. Respondent shall pay the Bureau its costs of investigation and enforcement in the
24 amount of \$4,408.27 prior to issuance of a new or reinstated license.

25
26 **ACCEPTANCE**

27 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
28 stipulation and the effect it will have on my Smog Check Inspector License. I enter into this

1 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
2 to be bound by the Decision and Order of the Director of Consumer Affairs.

3
4 DATED: January 19, 2021 Signed Copy on File
5 NOEL MODESTO
6 *Respondent*
7

8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Director of Consumer Affairs.
11

12 DATED: January 5, 2021

Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 SHAWN P. COOK
Supervising Deputy Attorney General

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17 KEVIN J. RIGLEY
18 Deputy Attorney General
Attorneys for Complainant
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