

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

In the Matter of the Accusation Against:

CEBU PRIDE, INC.
dba MISSION VALLEY ARCO
JOSEPH N. CUASITO, President
DEBORAH B. CUASITO, Secretary
ELIZAR Z. RAMAS, Treasurer
40077 Mission Blvd.
Fremont, California 94539

Case No. 79/10-18

Automotive Repair Dealer Registration
No. ARD 226207
Smog Check Station License No. RC 226207

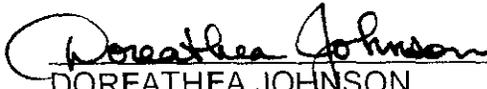
Respondents.

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 on 3/22/10.

DATED: FEB 10 2010


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 79/10-18

12 **CUBU PRIDE, INC**
13 **dba MISSION VALLEY ARCO,**
JOSEPH N. CUASITO, PRESIDENT
14 **DEBORAH B. CAUSITO, SECRETARY**
ELIZAR Z. RAMAS, TREASURER
15 **40077 Mission Blvd.**
Fremont, California 94539

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Automotive Repair Dealer Registration No.**
ARD 226207
17 **Smog Check Station License No. RC 226207**

18 Respondent.

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

22 PARTIES

23 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
24 brought this action solely in her official capacity and is represented in this matter by Edmund G.
25 Brown Jr., Attorney General of the State of California, by Justin R. Surber, Deputy Attorney
26 General.

27 2. On or about March 17, 2003, the Director of Consumer Affairs ("Director") issued
28 Automotive Repair Dealer Registration Number ARD 226207 to CEBU Pride, Inc.

1 ("Respondent"), doing business as Mission Valley Arco, with Joseph N. Cuasito as president,
2 Deborah B. Cuasito as secretary, and Elizar Z. Ramas as treasurer. Respondent's automotive
3 repair dealer registration was in full force and effect at all times relevant to the charges brought
4 herein and will expire on February 28, 2010, unless renewed.

5 3. On or about March 20, 2003, the Director issued Smog Check Station License
6 Number RC 226207 to Respondent. Respondent's smog check station license was in full force
7 and effect at all times relevant to the charges brought herein and will expire on February 28,
8 2010, unless renewed. On April 10, 2003, Mission Valley Arco was certified as a Gold Shield
9 station. On August 13, 2008, the Gold Shield certification was invalidated.

10 4. Respondent is representing itself in this proceeding and has chosen not to exercise its
11 right to be represented by counsel.

12 JURISDICTION

13 5. Accusation No. 79/10-18 was filed before the Director of Consumer Affairs
14 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
15 Respondent. The Accusation and all other statutorily required documents were properly served
16 on Respondent on October 15, 2009. Respondent timely filed its Notice of Defense contesting
17 the Accusation. A copy of Accusation No. 79/10-18 is attached as exhibit A and incorporated
18 herein by reference.

19 ADVISEMENT AND WAIVERS

20 6. Respondent has carefully read, and understands the charges and allegations in
21 Accusation No. 79/10-18. Respondent has also carefully read, and understands the effects of this
22 Stipulated Settlement and Disciplinary Order.

23 7. Respondent is fully aware of its legal rights in this matter, including the right to a
24 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
25 its own expense; the right to confront and cross-examine the witnesses against them; the right to
26 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
27 the attendance of witnesses and the production of documents; the right to reconsideration and
28

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

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

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 79/10-18.

8 10. Respondent agrees that its Automotive Repair Dealer Registration is subject to
9 discipline and they agree to be bound by the Director of Consumer Affairs (Director)'s
10 imposition of discipline as set forth in the Disciplinary Order below.

11 CONTINGENCY

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

22 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
23 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
24 effect as the originals.

25 13. 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

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
8 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 226207,
9 and Smog Check Station License No. RC 226207, issued to Respondent are revoked. However,
10 the revocation of Respondent's Automotive Repair Dealer Registration No. ARD 226207 is
11 stayed and Respondent is placed on probation for three (3) years on the following terms and
12 conditions. Only the Revocation of Respondent's Automotive Repair Dealer Registration No.
13 ARD 226207 is stayed. Smog Check Station License No. RC 226207 is revoked.

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

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

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

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

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

1 decision.

2 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
3 Respondent has failed to comply with the terms and conditions of probation, the Department may,
4 after giving notice and opportunity to be heard, temporarily or permanently invalidate the
5 registration.

6 7. **False and Misleading Advertising.** If the accusation involves false and misleading
7 advertising, during the period of probation, Respondent shall submit any proposed advertising
8 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

9 8. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery,
10 \$8643.70. Payment shall be received no later than 6 months before probation terminates. Failure
11 to complete payment of cost recovery within this time frame shall constitute a violation of
12 probation which may subject Respondent's registration to outright revocation; however, the
13 Director or the Director's Bureau of Automotive Repair designee may elect to continue probation
14 until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

15 ACCEPTANCE

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Automotive Repair Dealer Registration, and Smog
18 Check Station License. I enter into this Stipulated Settlement and Disciplinary Order
19 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
20 Director of Consumer Affairs.

21
22 DATED: JAN. 14, 2010

23 
24 _____
CEBU PRIDE INC. dba MISSION VALLEY ARCO,
ELIZAR Z. RAMAS, TREASURER - V.P.
Respondent

25 ///

26 ///

27 ///

28

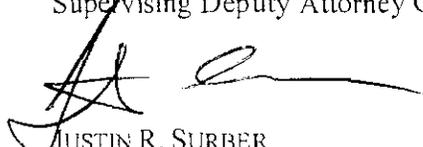
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

Dated: 1/25/10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

SF2009403214
Stipulation.rtf

Exhibit A

Accusation No. 79/10-18

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/10-18

13 **CEBU PRIDE, INC.,**
14 **dba MISSION VALLEY ARCO**
15 **JOSEPH N. CUASITO, PRESIDENT**
16 **DEBORAH B. CUASITO, SECRETARY**
17 **ELIZAR Z. RAMAS, TREASURER**
18 **40077 Mission Blvd.**
19 **Fremont, California 94539**

A C C U S A T I O N
(Smog Check)

20 **Automotive Repair Dealer Reg. No. ARD 226207**
21 **Smog Check Station License No. RC 226207**

22 Respondent.

23 Complainant alleges:

24 **PARTIES**

25 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
26 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

27 2. On or about March 17, 2003, the Director of Consumer Affairs ("Director") issued
28 Automotive Repair Dealer Registration Number ARD 226207 to CEBU Pride, Inc.

("Respondent"), doing business as Mission Valley Arco, with Joseph N. Cuasito as president,
Deborah B. Cuasito as secretary, and Elizar Z. Ramas as treasurer. Respondent's automotive

///

1 repair dealer registration was in full force and effect at all times relevant to the charges brought
2 herein and will expire on February 28, 2010, unless renewed.

3 3. On or about March 20, 2003, the Director issued Smog Check Station License
4 Number RC 226207 to Respondent. Respondent's smog check station license was in full force
5 and effect at all times relevant to the charges brought herein and will expire on February 28,
6 2010, unless renewed.

7 4. On April 10, 2003, Mission Valley Area was certified as a Gold Shield station. On
8 August 13, 2008, the Gold Shield certification was invalidated, as set forth in subparagraph 21 (a)
9 below.

10 **JURISDICTION**

11 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
12 the Director may invalidate an automotive repair dealer registration.

13 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
14 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
15 proceeding against an automotive repair dealer or to render a decision invalidating a registration
16 temporarily or permanently.

17 7. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
18 part, that the Director has all the powers and authority granted under the Automotive Repair Act
19 for enforcing the Motor Vehicle Inspection Program.

20 8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
21 suspension of a license by operation of law, or by order or decision of the Director of Consumer
22 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
23 of jurisdiction to proceed with disciplinary action.

24 ///
25 ///
26 ///
27 ///
28 ///

1 (d) Commits any act involving dishonesty, fraud, or deceit whereby
another is injured . . .

2 12. Health & Saf. Code section 44072.8 states that when a license has been revoked or
3 suspended following a hearing under this article, any additional license issued under this chapter
4 in the name of the licensee may be likewise revoked or suspended by the director.

5 **COST RECOVERY**

6 13. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
7 the administrative law judge to direct a licentiate found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 **UNDERCOVER OPERATION: 1992 OLDSMOBILE BRAVADA**

11 14. On October 28, 2008, an undercover operator with the Bureau, using the alias
12 "Katherine Storm" (hereinafter "operator"), took the Bureau's 1992 Oldsmobile Bravada to
13 Respondent's facility and requested a smog inspection. A defective exhaust gas recirculation
14 ("EGR") valve and a blockage plate had been installed in the Bureau-documented vehicle,
15 preventing the EGR system from operating. The operator signed and received a copy of a written
16 estimate for the inspection. After the inspection was completed, the operator paid the facility
17 \$47.25 and received copies of an invoice and a vehicle inspection report. During the undercover
18 operation, a representative of the Bureau observed a Gold Shield banner hung above the entrance
19 of the service bay. That same day, electronic smog Certificate of Compliance #NE562318C was
20 issued for the vehicle.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 15. Respondent's automotive repair dealer registration is subject to disciplinary action
24 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or
25 authorized statements which it knew or in the exercise of reasonable care should have known to
26 be untrue or misleading, as follows:

27 a. Respondent certified that the Bureau's 1992 Oldsmobile Bravada had passed the
28 inspection and was in compliance with applicable laws and regulations. In fact, a defective EGR

1 valve and a blockage plate had been installed in the vehicle, preventing the EGR system from
2 operating. As such, the vehicle would not pass the inspection required by Health & Saf. Code
3 section 44012.

4 b. Respondent represented on the written estimate and invoice that its business name
5 was "Smogpros" (estimate) and "Arco Smogpros Mission Valley Arco" (invoice) when, in fact,
6 Respondent's business name as registered with the Bureau is Mission Valley Arco.

7 SECOND CAUSE FOR DISCIPLINE

8 (Fraud)

9 16. Respondent's automotive repair dealer registration is subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed
11 an act which constitutes fraud by issuing an electronic smog certificate of compliance for the
12 Bureau's 1992 Oldsmobile Bravada without performing a bona fide inspection of the emission
13 control devices and systems on the vehicle, thereby depriving the People of the State of California
14 of the protection afforded by the Motor Vehicle Inspection Program.

15 THIRD CAUSE FOR DISCIPLINE

16 (False Advertising)

17 17. Respondent's automotive repair dealer registration is subject to disciplinary action
18 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to
19 comply with provisions of California Code of Regulations, title 16, as follows:

20 a. Section 3373: Respondent published, uttered, or made, or caused to be published,
21 uttered, or made false or misleading statements or advertising which it knew or in the exercise of
22 reasonable care should have known to be false or misleading, as follows: Respondent displayed a
23 an advertisement or banner at its facility indicating that it was a Gold Shield station when, in fact,
24 the facility's Gold Shield certification was invalidated on August 13, 2008, as set forth in
25 subparagraph 21 (a) below.

26 b. Section 3356, subdivision (a)(1): Respondent failed to show its correct business
27 name on the invoice, as set forth in subparagraph 15 (b) above.

28 ///

1 compliance for the Bureau's 1992 Oldsmobile Bravada without performing a bona fide inspection
2 of the emission control devices and systems on the vehicle, thereby depriving the People of the
3 State of California of the protection afforded by the Motor Vehicle Inspection Program.

4 DISCIPLINE CONSIDERATIONS

5 21. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges as follows:

7 a. On or about November 19, 2007, the Bureau issued Citation No. C08-0495 against
8 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
9 perform a visual/functional check of emission control devices according to procedures prescribed
10 by the department), and California Code of Regulations, title 16, section ("Regulation") 3340.35,
11 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
12 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a
13 tampered emission control system (AS/PAIR system). The Bureau assessed civil penalties
14 totaling \$500 against Respondent for the violations. The Bureau also invalidated Mission Valley
15 Arco's Gold Shield certificate, prohibiting the facility from operating as a certified Gold Shield
16 station and Consumer Assistance Program station. Respondent appealed the citation; however, it
17 was affirmed on November 25, 2008. Respondent complied with the citation on January 13,
18 2009.

19 b. On or about April 2, 2008, the Bureau issued Citation No. C08-0873 against
20 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
21 determine that emission control devices and systems required by State and Federal law are
22 installed and functioning correctly in accordance with test procedures); and Regulation 3340.35,
23 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
24 Respondent had issued a certificate of compliance to a Bureau undercover vehicle that had a
25 tampered emission control system (thermostatic air cleaner or TAC, also known as an ACL
26 system). The Bureau assessed civil penalties totaling \$1,000 against Respondent for the
27 violations. Respondent appealed the citation and pursuant to a settlement agreement, the citation
28 became final on January 29, 2009. Respondent complied with the citation on February 6, 2009.

1 c. On or about September 11, 2008, the Bureau issued Citation No. C09-0228 against
2 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
3 determine that emission control devices and systems required by State and Federal law are
4 installed and functioning correctly in accordance with test procedures); and Regulation 3340.35,
5 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested).
6 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with the
7 ignition timing adjusted beyond specifications. The Bureau assessed civil penalties totaling
8 \$2,000 against Respondent for the violations. Respondent appealed the citation and pursuant to a
9 settlement agreement, the citation became final on January 29, 2009. Respondent complied with
10 the citation on February 23, 2009.

11 OTHER MATTERS

12 22. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
13 refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of
14 business operated in this state by Respondent CEBU Pride, Inc., doing business as Mission
15 Valley Arco, upon a finding that said Respondent has, or is, engaged in a course of repeated and
16 willful violations of the laws and regulations pertaining to an automotive repair dealer.

17 23. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
18 Number RC 226207, issued to Respondent CEBU Pride, Inc., doing business as Mission Valley
19 Arco, is revoked or suspended, any additional license issued under this chapter in the name of
20 said licensee may be likewise revoked or suspended by the director.

21 PRAYER

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

24 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
25 Number ARD 226207, issued to CEBU Pride, Inc., doing business as Mission Valley Arco;

26 2. Temporarily or permanently invalidating any other automotive repair dealer
27 registration issued to CEBU Pride, Inc.;

28 ///

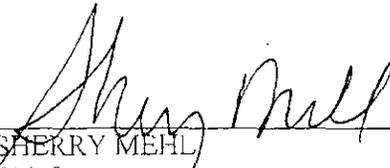
1 3. Revoking or suspending Smog Check Station License Number RC 226207, issued to
2 CEBU Pride, Inc., doing business as Mission Valley Arco;

3 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of CEBU Pride, Inc.;

5 5. Ordering Respondent CEBU Pride, Inc., doing business as Mission Valley Arco, to
6 pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of
7 this case, pursuant to Business and Professions Code section 125.3;

8 6. Taking such other and further action as deemed necessary and proper.

9
10 DATED: 9/25/09


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant