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

In the Matter of the Accusation Against:

Case No. 79/15-17

**CENTRAL VALLEY SMOG
PATRICK SEAN MCCONNELL AKA
PATRICK SEAN MCCONNELL, SR.
OWNER**

**801 L. Street, Unit B
Sanger, CA 93657**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Automotive Repair Dealer Registration No.
ARD 256216**

Smog Check Station License No. RC 256216

**PATRICK SEAN MCCONNELL AKA
PATRICK SEAN MCCONNELL, SR.
1531 North Valencia Court
Reedley. California 93654**

**Advanced Emission Specialist Technician
License No. EA 630029 (to be re-designated
upon renewal as EO 630029 and/or EI
630029**

Respondents.

1
2 FINDINGS OF FACT

3 1. On or about August 12, 2014, Complainant Patrick Dorais, in his official capacity as
4 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
5 No. 79/15-17 against Central Valley Smog, Patrick Sean McConnell a.k.a. Patrick Sean
6 McConnell, Sr. Owner (Respondent) before the Department of Consumer Affairs for the Bureau
7 of Automotive Repair. (Accusation attached as Exhibit A.)

8 2. On or about September 22, 2008, the Bureau of Automotive Repair (Bureau) issued
9 Automotive Repair Dealer Registration No. ARD 256216 to Respondent Central Valley Smog,
10 Patrick Sean McConnell a.k.a. Patrick Sean McConnell, Sr. (owner). The Automotive Repair
11 Dealer Registration expired on September 30, 2013, and has not been renewed.

12 3. On or about October 14, 2010, the Bureau issued Smog Check Station License No.
13 RC 256216 to Respondent Patrick Sean McConnell a.k.a. Patrick Sean McConnell, Sr. The
14 Smog Check Station License was canceled on March 13, 2012, and has not been renewed.

15 4. On or about March 4, 2008, the Bureau issued Advanced Emission Specialist
16 Technician License No. EA 630029 to Respondent Patrick Sean McConnell a.k.a. Patrick Sean
17 McConnell, Sr. The Advanced Emission Specialist Technician License expired on June 30, 2012,
18 and has not been renewed. Upon renewal of the license, the license will be re-designated as EO
19 630029 and/or EI 630029.

20 5. On or about August 28, 2014, Respondent was served by Certified Mail and First
21 Class United States mail with copies of the Accusation No. 79/15-17, Statement to Respondent,
22 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
23 11507.5, 11507.6, and 11507.7) at Respondent' addresses of record which, pursuant to Business
24 and Professions Code section 136, must be reported to and maintained with the Bureau.

25 The address of record of Respondent Central Valley Smog, Patrick Sean McConnell a.k.a
26 Patrick Sean McConnell, Sr. (owner) was and now is: 801 L Street, Unit B, Sanger, California
27 93657 The address of record of Respondent Patrick Sean McConnell a.k.a. Patrick Sean
28

1 McConnell, Sr. (owner), his address of record was and now is: 1531 North Valencia Court,
2 Reedley, California 93654.

3 6. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 7. On or about September 9, 2014, the documents identified in Paragraph 5 above
7 mailed to Respondent at 801 L Street, Unit B, Sanger, California 93657 were returned by the U.S.
8 Postal Service, along with the Certified Mail and First Class United States Mail returned by the
9 United States Postal Service marked "unable to forward, return to sender". On September 9,
10 2014, Respondent signed the Certified Mail Return Receipt of the aforesaid documents mailed to
11 1531 North Valencia Ct., Reedley, California 93654. The First Class United States mail to
12 Respondent at said address of record was not returned by the United States Postal Service.

13 8. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 79/15-17.

20 10. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

23
24 11. Pursuant to its authority under Government Code section 11520, the Director of the
25 Department of Consumer Affairs, after having reviewed the proof of service dated August 28,
26 2014, signed by Julie Hutcherson, signed Certified Mail Receipt and return envelopes, finds
27 Respondent is in default. The Director will take action without further hearing and, based on

1 Accusation No. 79/15-17, proofs of service and on the Affidavit of Bureau Representative Joseph
2 Cheung, finds that the allegations in Accusation are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Central Valley Smog, Patrick
5 Sean McConnell a.k.a. Patrick Sean McConnell, Sr. has subjected his Automotive Repair Dealer
6 Registration No. ARD 256216 to discipline.

7 2. Based on the foregoing findings of fact, Respondent Central Valley Smog, Patrick
8 Sean McConnell a.k.a. Patrick Sean McConnell, Sr. has subjected his Smog Check Station
9 License No. RC 256216 to discipline.

10 3. Based on the foregoing findings of fact, Respondent Patrick Sean McConnell a.k.a.
11 Patrick Sean McConnell, Sr. has subjected his Advanced Emission Specialist Technician License
12 No. 630029 (to be re-designated upon renewal as EO 630029 and/or EI 630029) to discipline.

13 4. The agency has jurisdiction to adjudicate this case by default.

14 5. The Director of the Department of Consumer Affairs for the Bureau of Automotive
15 Repair is authorized to revoke Respondent's Automotive Repair Dealer Registration, Smog Check
16 Station License and Advanced Emission Specialist Technician License based upon the following
17 violations alleged in the Accusation which are supported by the evidence contained in the
18 Affidavit of Bureau Representative Joseph Cheung in this case:

19 a. Violation of Health and Safety Code section 44050(c) for failure to appeal or pay the
20 administrative fine due for Citation No. C2012-0918; and

21 b. Violation of Health and Safety Code section 44050(c) for failure to appeal or
22 complete the training required by Citation No. M2012-0919.

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ORDER

1
2 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 256216, Smog
3 Check Station License No. RC 256216 and Advanced Emission Specialist Technician License
4 No. EA 630029 (to be re-designated upon renewal as EO 630029 and/or EI 630029) heretofore
5 issued to Respondent Central Valley Smog, Patrick Sean McConnell a.k.a. Patrick Sean
6 McConnell, Sr., and each of them, are revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
10 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
11 Cordova, California 95670. The agency in its discretion may vacate the Decision and grant a
12 hearing on a showing of good cause, as defined in the statute.

13 This Decision shall become effective on October 24, 2014.

14 It is so ORDERED October 7, 2014

15
16 Attachment:
17 Exhibit A: Accusation
18 Exhibit B: Service Documents
19 Exhibit C: Affidavit of Joseph Cheung
20
21
22


DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **CENTRAL VALLEY SMOG**
13 **PATRICK SEAN MCCONNELL, SR., OWNER**
14 **801 L Street, Unit B**
Sanger, CA 93657
15 **Automotive Repair Dealer Reg. No. ARD 256216**
16 **Smog Check Station License No. RC 256216**
17 **and**
18 **PATRICK SEAN MCCONNELL**
1531 North Valencia Court
19 **Reedley, CA 93654**
20 **Advanced Emission Specialist Technician**
License No. EA 630029 (to be re-designated
21 **upon renewal as EO 630029 and/or EI 630029)**
22 Respondents.

Case No. *79/15-17*

ACCUSATION
(Smog Check)

23 Complainant alleges:

24 **PARTIES**

25 1. Patrick Dorais ("Complainant") brings this Accusation solely in his official capacity
26 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
27 ///
28 ///

1 **Automotive Repair Dealer Registration**

2 2. On or about September 22, 2008, the Director of Consumer Affairs ("Director")
3 issued Automotive Repair Dealer Registration Number ARD 256216 ("registration") to Patrick
4 Sean McConnell, Sr. ("Respondent"), owner of Central Valley Smog. Respondent's registration
5 expired on September 30, 2013.

6 **Smog Check Station License**

7 3. On or about October 14, 2010, the Director issued Smog Check Station License
8 Number RC 256216 to Respondent. Respondent's smog check station license was canceled on
9 March 13, 2012.

10 **Advanced Emission Specialist Technician License**

11 4. On or about March 4, 2008, the Director issued Advanced Emission Specialist
12 Technician License Number EA 630029 ("smog technician license") to Respondent.
13 Respondent's smog technician license expired on June 30, 2012. Upon renewal of the license, the
14 license will be re-designated as EO 630029 and/or EI 630029.¹

15 **STATUTORY AND REGULATORY PROVISIONS**

16 5. Health and Safety Code section 44002 provides, in pertinent part, that the Director
17 has all the powers and authority granted under the Automotive Repair Act for enforcing the
18 Motor Vehicle Inspection Program.

19 6. Health and Safety Code section 44050 states, in pertinent part:

20 (a) In addition to or in lieu of any other remedy or penalty, including, but
21 not limited to, education, training, or an office conference, the department may issue
22 a citation to a licensee, contractor, or fleet owner for a violation of the requirements
of this chapter or a regulation adopted pursuant to this chapter. The citation may
contain an order of abatement or the assessment of an administrative fine, or both.

23
24 (c) An order of abatement issued pursuant to this section shall fix a
25 reasonable time for abatement of the violation. An order of abatement may require
any or all of the following:

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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2 (2) The smog check technician to successfully complete one or more
3 retraining courses prescribed by the department pursuant to subdivision (c) of Section
4 44031.5, or successfully complete one or more advanced retraining courses
5 prescribed by the department, or both.

6 (e) Failure to comply with an order of abatement or payment of an
7 administrative fine issued by the department pursuant to this section is grounds for
8 suspension or revocation of the license, or placing the license on probation . . .

9
10 7. Health and Safety Code section 44055, subdivision (b), states:

11 The department may deny an application for the renewal of a test station
12 or repair station license if the applicant, or any partner, officer, or director thereof, has
13 failed to pay any civil penalty or administrative fine in accordance with this article.

14 8. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
15 or suspension of a license by operation of law, or by order or decision of the Director of
16 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
17 Director of jurisdiction to proceed with disciplinary action.

18 9. Health and Safety Code section 44072.8 states that when a license has been revoked
19 or suspended following a hearing under this article, any additional license issued under this
20 chapter in the name of the licensee may be likewise revoked or suspended by the director.

21 10. Business and Professions Code section 118, subdivision (b), states:

22 The suspension, expiration, or forfeiture by operation of law of a license
23 issued by a board in the department, or its suspension, forfeiture, or cancellation by
24 order of the board or by order of a court of law, or its surrender without the written
25 consent of the board, shall not, during any period in which it may be renewed,
26 restored, reissued, or reinstated, deprive the board of its authority to institute or
27 continue a disciplinary proceeding against the licensee upon any ground provided by
28 law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

29 11. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
30 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
31 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
32 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

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COST RECOVERY

12. Business and Professions Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Failure to Pay Administrative Fine)

13. On or about February 13, 2012, the Bureau issued Citation No. C2012-0918 to Respondent, in his capacity as owner of Central Valley Smog, for a violation of Health and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department). Respondent was ordered to pay an administrative fine in the amount of \$1,500 to the Bureau within thirty (30) days from receipt of the citation. On or about March 13, 2012, the Bureau served Respondent with the citation.

14. Respondent's smog check station license is subject to disciplinary action pursuant to Health and Safety Code section 44050, subdivision (e), in that Respondent failed to appeal the citation or pay the administrative fine.

SECOND CAUSE FOR DISCIPLINE

(Failure to Complete Training)

15. On or about February 13, 2012, the Bureau issued Citation No. M2012-0919 to Respondent against his smog technician license for a violation of Health and Safety Code section 44032 (qualified technicians shall perform tests of emission control systems and devices in accordance with Health and Safety Code section 44012). Respondent was ordered to complete a 16-hour training course and to submit proof of completion to the Bureau within thirty (30) days from receipt of the citation. On or about March 13, 2012, the Bureau served Respondent with the citation.

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1 16. Respondent's smog technician license is subject to disciplinary action pursuant to
2 Health and Safety Code section 44050, subdivision (e), in that Respondent failed to appeal the
3 citation or complete the required training.

4 OTHER MATTERS

5 17. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
6 Number RC 256216, issued to Respondent Patrick Sean McConnell, Sr., doing business as
7 Central Valley Smog, is revoked or suspended, any additional license issued under this chapter in
8 the name of said licensee may be likewise revoked or suspended by the director.

9 18. Pursuant to Health and Safety Code section 44072.8, if Respondent Patrick Sean
10 McConnell, Sr.'s smog technician license, currently designated as EA 630029, but upon renewal
11 will be re-designated as EO 630029 and/or EI 630029, is revoked or suspended, any additional
12 license issued under this chapter in the name of said licensee may be likewise revoked or
13 suspended by the director.

14 PRAYER

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

17 1. Revoking or suspending Smog Check Station License Number RC 256216, issued to
18 Patrick Sean McConnell, Sr., doing business as Central Valley Smog;

19 2. Revoking or suspending Patrick Sean McConnell, Sr.'s smog technician license,
20 currently designated as EA 630029, but which, upon renewal, will be re-designated as EO 630029
21 and/or EI 630029;

22 3. Revoking or suspending any additional license issued under Chapter 5 of the Health
23 and Safety Code in the name of Patrick Sean McConnell, Sr.;

24 4. Ordering Patrick Sean McConnell, Sr., individually, and doing business as Central
25 Valley Smog, to pay the Bureau of Automotive Repair the reasonable costs of the investigation
26 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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5. Taking such other and further action as deemed necessary and proper.

DATED: August 12, 2014

Patrick Dorais
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SA2014313905

Exhibit B

Service Documents

2. Article Number



7196 900A 9111 2439 9355

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

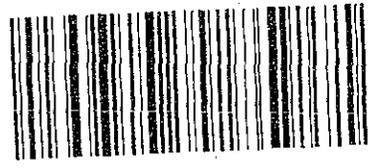
Patrick Sean McConnell
1531 North Valencia Court
Reedley, CA 93654

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>Patrick McConnell Sr</i>	B. Date of Delivery <i>9-9-14</i>
C. Signature <i>Patrick McConnell</i>	<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Address
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No

SA2014313905
Accusation Packet
Sterling A. Smith

CERTIFIED MAIL



7196 9008 9111 2439 9324

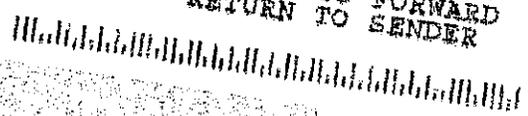
Sterling A. Smith
Office of the Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

NIXIE

936578011-1N

03/05/12

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER



UNDELIVERED
RETURN TO SENDER

03/05/12

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7196 9008 9111 2439 9324

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Patrick Sean McConnell
Central Valley Smog
CENTRAL VALLEY SMOG
801 L Street, Unit B
Sanger, CA 93657

PS Form 3811, January 2005

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

SA2014313905
Accusation Packet
Sterling A. Smith

Thank you for using Return Receipt Service

neopost

FIRST CLASS MAIL

08/25/2014

US POSTAGE

\$002 03



ZIP 05814
041L12202971

NIXIE

936578011-1N

09/06/14

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER

WA



Not Deliverable as Addressed
Unable to Forward

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: Central Valley Smog**

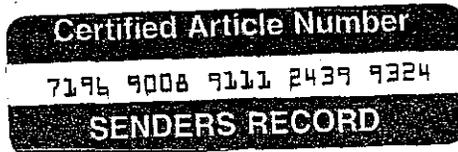
No.: **79/15-17**

I declare:

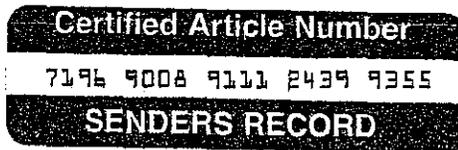
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On August 28, 2014, I served the attached [**Accusation, Statement to Respondent Request for Discovery, Notice of Defense(2 copies), Copy of Government Code Sections 11507.5, 11507.6 and 11507.7**] by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the [**Accusation, Statement to Respondent Request for Discovery, Notice of Defense(2 copies), Copy of Government Code Sections 11507.5, 11507.6 and 11507.7**] was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Patrick Sean McConnell
Central Valley Smog
CENTRAL VALLEY SMOG
801 L Street, Unit B
Sanger, CA 93657
Respondent



Patrick Sean McConnell
1531 North Valencia Court
Reedley, CA 93654
Respondent



Courtesy Copy:
Theresa.Montoya@dca.ca.gov

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 28, 2014, at Sacramento, California.

Julie Hutcherson
Declarant

Signature

7196 9008 9111 2439 9324

TO: Patrick Sean McConnell
Central Valley Smog
CENTRAL VALLEY SMOG
801 L Street, Unit B
Sanger, CA 93657

SENDER: Sterling A. Smith

REFERENCE: SA2014313905

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

USPS® Receipt for Certified Mail™ No Insurance Coverage Provided Do Not Use for International Mail	POSTMARK OR DATE
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7196 9008 9111 2439 9355

TO: Patrick Sean McConnell
1531 North Valencia Court
Reedley, CA 93654

SENDER: Sterling A. Smith

REFERENCE: SA2014313905

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Exhibit C

Affidavit of Joseph Cheung
