

1
2
3
4
5
6
7
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. 77/21-4511

13 **SMOG MART, INC.**
14 **NAVEED M. AKHTAR,**
15 **PRES./SECT./TREAS.**
16 7070 Stockton Blvd.
17 Sacramento, CA 95823

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Automotive Repair Dealer Registration**
19 **No. ARD 272665**
20 **Smog Check Station License No. RC 272665**
21 **Brake Station License No. BS 272665,**
22 **Lamp Station License No. LS 272665**

Respondent.

23 **FINDINGS OF FACT**

24 1. On or about May 4, 2022, Complainant Patrick Dorais, in his official capacity as the
25 Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, filed
26 Accusation No. 77/21-4511 against Smog Mart, Inc.; Naveed M. Akhtar, Pres./Sect./Treas.
27 (Respondent) before the Director of the Department of Consumer Affairs. (Accusation attached
28 as Exhibit A.)

///

1 2. On or about April 25, 2013, the Bureau issued Automotive Repair Dealer Registration
2 No. ARD 272665 to Respondent. The Automotive Repair Dealer Registration was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 77/21-4511 and will
4 expire on April 30, 2023, unless renewed

5 3. On or about June 12, 2013, the Bureau issued Smog Check Station License No. RC
6 272665 to Respondent. The Smog Check Station License was in full force and effect at all times
7 relevant to the charges brought in Accusation No. 77/21-4511 and will expire on April 30, 2023,
8 unless renewed.

9 4. On or about November 4, 2016, the Bureau issued Brake Station License No. BS
10 272665 to Respondent. The Brake Station License was in full force and effect at all times
11 relevant to the charges brought in Accusation No. 77/21-4511 and will expire on April 30, 2023,
12 unless renewed.

13 5. On or about June 12, 2013, the Bureau issued Lamp Station License Number LS
14 272665, Class A, to Respondent. The Lamp Station License was in full force and effect at all
15 times relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

16 6. On or about May 11, 2022, Respondent was served by Certified and First Class Mail
17 copies of the Accusation No. 77/21-4511, Statement to Respondent, Notice of Defense, Request
18 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
19 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
20 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
21 record was and is:

22 7070 Stockton Blvd.
23 Sacramento, CA 95823.

24 7. Service of the Accusation was effective as a matter of law under the provisions of
25 Government Code section 11505(c) and/or Business and Professions Code section 124.

26 8. Government Code section 11506(c) states, in pertinent part:

27 (c) The respondent shall be entitled to a hearing on the merits if the respondent
28 files a notice of defense . . . and the notice shall be deemed a specific denial of all
 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense

1 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
2 discretion may nevertheless grant a hearing.

3 9. The Bureau takes official notice of its records and the fact that Respondent failed to
4 file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore
5 waived their right to a hearing on the merits of Accusation No. 77/21-4511.

6 10. California Government Code section 11520(a) states, in pertinent part:

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

11 11. Pursuant to its authority under Government Code section 11520, the Director after
12 having reviewed the proof of service dated May 11, 2022, signed by Natalie Clark, and the
13 certified mail return receipt finds Respondent is in default. The Director will take action without
14 further hearing and, based on the relevant evidence contained in the Default Decision
15 Investigatory Evidence Packet in this matter, finds that the charges and allegations in Accusation
16 No. 77/21-4511, are separately and severally, found to be true and correct by clear and
17 convincing evidence.

18 12. The Director finds that the actual costs for Investigation and Enforcement are
19 \$20,680.56, as of June 27, 2022.

20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Smog Mart, Inc., with Naveed
22 M. Akhtar as its president, secretary, and treasurer, has subjected its Automotive Repair Dealer
23 Registration No. ARD 272665, Smog Check Station License No. RC 272665, Brake Station
24 License No. BS 272665, and Lamp Station License No. LS 272665, to discipline.

25 2. The agency has jurisdiction to adjudicate this case by default.

26 3. The Director of the Department of Consumer Affairs is authorized to revoke
27 Respondent's Automotive Repair Dealer Registration, Smog Check Station license, Brake Station
28 license, and Lamp Station license based upon the following violations alleged in the Accusation
which are supported by the evidence contained in the Default Decision Investigatory Evidence
Packet in this case:

1 a. Respondent violated Business and Professions Code (Code) section 9884.7,
2 subdivision (a)(6), in that Respondent failed to material comply with the Automotive Repair Act,
3 as regards R.S.'s 1997 Toyota;

4 b. Respondent violated Code section 9884.7, subdivision (a)(6), in that Respondent
5 failed to materially comply with the Automotive Repair Act, as regards M.S.'s 1991 Toyota;

6 c. Respondent violated Code section 9884.7, subdivision (a)(6), in that Respondent
7 failed to materially comply with the Automotive Repair Act, as regards D.J.'s 2006 Chrysler;

8 d. Respondent violated Code section 9884.7, subdivision (a)(6), in that Respondent
9 failed to comply with regulations, specifically California Code of Regulations, title 16, section
10 3353.1, subdivision (c), in a material respect as regards D.J.'s 2006 Chrysler;

11 e. Respondent violated Code section 9884.7, subdivision (a)(1), in that it made or
12 authorized statements which it knew or in the exercise of reasonable care should have known to
13 be untrue or misleading, as regards the Bureau's 2003 Honda;

14 f. Respondent violated Code section 9884.7, subdivision (a)(4), in that, it committed
15 acts constituting fraud by charging and receiving payment for work that was not performed and
16 parts that were not supplied, as regards the Bureau's 2003 Honda;

17 g. Respondent violated Code section 9884.7, subdivision (a)(7), in that, it willfully
18 departed from or disregarded accepted trade standards for good and workmanlike repair without
19 the operator's consent, as regards the Bureau's 2003 Honda;

20 h. Respondent violated Code section 9884.7, subdivision (a)(6), in that, it failed to
21 materially comply with the Automotive Repair Act as regards the Bureau's 2003 Honda;

22 i. Respondent's smog check station license violated Health and Safety Code section
23 44072, subdivision (d), in that it committed dishonest, fraudulent, or deceitful acts whereby
24 another was injured; and

25 j. Respondent's brake and lamp station licenses violated Code section 9889.3,
26 subdivision (d), in that, it committed dishonest, fraudulent, or deceitful acts whereby another was
27 injured.

28 ///

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 272665, Smog Check Station License No. RC 272665, Brake Station License No. BS 272665, and Lamp Station License No. LS 272665, issued to Respondent Smog Mart, Inc., with Naveed M. Akhtar as its president, secretary, and treasurer, are revoked. In addition, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of Smog Mart, Inc., shall be revoked, and any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Business and Professions Code in the name of Smog Mart, Inc., shall be revoked. Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Boulevard, Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 15, 2022

It is so ORDERED Sept. 12, 2022



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

3628384636283846.DOCX
DOJ Matter ID:SA2021305551

Attachment:
Exhibit A: Accusation