

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

In the Matter of the Accusation Against:

**CAL SMOG INSPECTION**  
**dba CAL SMOG INSPECTION CENTER, INC.**  
**ALEXANDER TAN, President**  
3215 Hamner Avenue, Bldg. C  
Norco, CA 92860-1939

Case No. 79/11-28

Automotive Repair Dealer Registration  
No. ARD 108204  
Smog Check, Test Only, Station License  
No. TC 108204

Respondent.

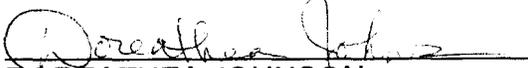
**DECISION**

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.

The suspension of Automotive Repair Dealer Registration No. ARD 108204 and Smog Check, Test Only, Station License No. TC 108204 shall commence on the effective date of this Decision.

This Decision shall become effective 3/31/11.

DATED: January 26, 2011

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 G. MICHAEL GERMAN  
Deputy Attorney General  
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*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:

Case No. 79/11-28

12 **CAL SMOG INSPECTION, DBA, CAL**  
13 **SMOG INSPECTION CENTER INC.;**  
**ALEXANDER TAN, PRESIDENT**  
14 **3215 Hamner Avenue, Bldg. C**  
**Norco, CA 92860-1939**

**STIPULATED SETTLEMENT**  
**AND DISCIPLINARY ORDER**

15 **Automotive Repair Dealer Registration No.**  
**ARD 108204**  
16 **Smog Check, Test Only, Station License No.**  
**TC 108204**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

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

26 2. Respondent Cal Smog Inspection, dba, Cal Smog Inspection Center Inc.; Alexander  
27 Tan, President (Respondent) is representing itself in this proceeding and has chosen not to  
28 exercise its right to be represented by counsel.



1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 79/11-28.

4 10. Respondent agrees that its ARD and station license are subject to discipline and he  
5 agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order  
6 below.

7 CONTINGENCY

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

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

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
26 writing executed by an authorized representative of each of the parties.

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1 up to and including the point of completion of repairs and testing, and with copies of all  
2 recordings thereof, in accordance with item 13, below, at Respondent's expense.

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

7       8.    **Violation of Probation.** Should the Director of Consumer Affairs determine that  
8 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
9 after giving notice and opportunity to be heard suspend or revoke Respondent's ARD and/or  
10 station license.

11       9.    **Continuing Education Courses.** During the period of probation, Respondent shall  
12 attend and successfully complete a Bureau certified training course in diagnosis and repair of  
13 emission systems failures and engine performance, applicable to the class of license held by the  
14 Respondent. Said course shall be completed and proof of completion submitted to the Bureau  
15 within 60 days of the effective date of this decision and order. If proof of completion of the  
16 course is not furnished to the Bureau within the 60-day period, Respondent's ARD and/or station  
17 license shall be immediately and/or remain suspended until such proof is received.

18       10. **Restrictions.** During the period of probation, Respondent shall not perform any form  
19 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,  
20 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to  
21 properly perform such work, and BAR has been given 10 days notice of the availability of the  
22 equipment for inspection by a BAR representative.

23       11. **Cost Recovery.** Pursuant to Business & Professions Code section 125.3, the costs of  
24 investigation and enforcement of this case are \$5,603.14 through December 21, 2010.

25 Respondent shall pay this amount in full in a monthly payment plan commencing within 30 days  
26 of the effective date of the Decision & Order, with the final payment to be made not later than six  
27 months prior to the completion of the probation period. Payment shall be in the form of a  
28 certified check, cashier's check or money order, payable to the "Bureau of Automotive Repair,"

1 and shall be mailed or delivered to the Bureau of Automotive Repair, 10240 Systems Parkway,  
2 Sacramento, California, 95827, Attention: Enforcement Planning & Oversight. Failure to  
3 complete payment of cost recovery within this time frame shall constitute a violation of  
4 probation, which may subject Respondent's ARD 108204 and/or Smog Check, Test Only, Station  
5 License No. TC 108204 to outright revocation, however, the Director or the Director's Bureau  
6 designee may elect to continue probation until such time as reimbursement of the entire cost  
7 recovery amount has been made to the Bureau.

8       **12. Prohibition Against Inside Sale or Transfer.** Any arrangement, oral or written,  
9 formal or tacit, that purports to sell, exchange, trade, or otherwise transfer ownership and control  
10 of Cal Smog Inspection, dba Cal Smog Inspection Center Inc. from one form or style of Cal  
11 Smog Inspection, dba Cal Smog Inspection Center Inc., to another entity associated with, located  
12 at, employed by or in any way operated under, or managed or controlled by Cal Smog Inspection,  
13 dba Cal Smog Inspection Center Inc., and/or any of its affiliated businesses or family members  
14 during the probation period is strictly forbidden. Any such attempted sale, exchange, trade, or  
15 other transfer shall constitute a violation of probation, which may subject Respondent's ARD  
16 108204 and/or Smog Check, Test Only, Station License No. TC 108204 to outright revocation.

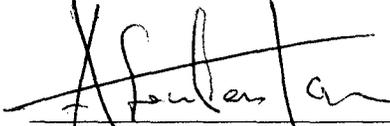
17       **13. Increased Supervision.** Respondent shall increase the hours that Alexander Tan is  
18 personally present at and supervising all operations of Cal Smog Inspection, dba Cal Smog  
19 Inspection Center, Inc. to match those that smog technicians are on the premises for the duration  
20 of the probation term.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration and Smog Check, Test Only, Station 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 Consumer Affairs.

DATED: 12/76/10   
CAL SMOG INSPECTION, dba CAL SMOG  
INSPECTION CENTER INC.; ALEXANDER TAN,  
PRESIDENT, Respondent

ENDORSEMENT

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

Dated: 12-28-10  
EDMUND G. BROWN JR.  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
  
G. MICHAEL GERMAN  
Deputy Attorney General  
*Attorneys for Complainant*

SD2010800730

**Exhibit A**

**Accusation No. 79/11-28**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
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13 **CAL SMOG INSPECTION, DBA,**  
**CAL SMOG INSPECTION CENTER INC.;**  
14 **3215 Hamner Avenue, Bldg. C**  
**Norco, CA 92860-1939**  
15 **ALEXANDER TAN, PRESIDENT**  
**Automotive Repair Dealer Registration**  
16 **No. ARD 108204**  
**Smog Check, Test Only, Station License**  
17 **No. TC 108204**  
18 Respondent.

Case No. 79/11-28  
**ACCUSATION**  
SMOG CHECK

19  
20 Complainant alleges:

21 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On or about February 29, 1984, the Bureau issued Automotive Repair Dealer  
26 Registration Number ARD 108204 ("registration") to Cal Smog Inspection, doing business as Cal  
27 Smog Inspection Center Inc.; ("Respondent") with Feliciano Lu Tan as President. On November  
28 23, 2009, Alexander Tan became the President. The registration was in full force and effect at all

1 times relevant to the charges brought herein and will expire on February 28, 2011, unless  
2 renewed.

3 **Smog Check Test Only Station License**

4 3. On or about November 15, 2002, the Bureau issued Smog Check Test Only Station  
5 License Number TC 108204 ("station license") to Respondent. The station license was in full  
6 force and effect at all times relevant to the charges brought herein and will expire on February 28,  
7 2011, unless renewed.

8 **STATUTORY PROVISIONS**

9 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
10 part:

11 (a) The director, where the automotive repair dealer cannot show there  
12 was a bona fide error, may deny, suspend, revoke, or place on probation the  
13 registration of an automotive repair dealer for any of the following acts or omissions  
14 related to the conduct of the business of the automotive repair dealer, which are done  
15 by the automotive repair dealer or any automotive technician, employee, partner,  
16 officer, or member of the automotive repair dealer.

17 (1) Making or authorizing in any manner or by any means whatever any  
18 statement written or oral which is untrue or misleading, and which is known, or which  
19 by the exercise of reasonable care should be known, to be untrue or misleading.

20 (2) Causing or allowing a customer to sign any work order that does not  
21 state the repairs requested by the customer or the automobile's odometer reading at  
22 the time of repair.

23 (4) Any other conduct that constitutes fraud.

24 (6) Failure in any material respect to comply with the provisions of this  
25 chapter or regulations adopted pursuant to it.

26 (b) Except as provided for in subdivision (c), if an automotive repair  
27 dealer operates more than one place of business in this state, the director pursuant to  
28 subdivision (a) shall only suspend, revoke, or place on probation the registration of  
the specific place of business which has violated any of the provisions of this chapter.  
This violation, or action by the director, shall not affect in any manner the right of the  
automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
place on probation the registration for all places of business operated in this state by  
an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
engaged in a course of repeated and willful violations of this chapter, or regulations  
adopted pursuant to it.

1           5.     Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
2 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
4 temporarily or permanently.

5           6.     Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
6 "commission," "committee," "department," "division," "examining committee," "program," and  
7 "agency." "License" includes certificate, registration or other means to engage in a business or  
8 profession regulated by the Code.

9           7.     Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
10 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
11 the Motor Vehicle Inspection Program.

12          8.     Section 44072.2 of the Health and Safety Code states, in pertinent part:

13                     The director may suspend, revoke, or take other disciplinary action  
14 against a license as provided in this article if the licensee, or any partner, officer, or  
15 director thereof, does any of the following:

16                     (a) Violates any section of this chapter [the Motor Vehicle Inspection  
17 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted  
18 pursuant to it, which related to the licensed activities.

19                     (c) Violates any of the regulations adopted by the director pursuant to  
20 this chapter.

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

23          9.     Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
24 expiration or suspension of a license by operation of law, or by order or decision of the Director  
25 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
26 the Director of jurisdiction to proceed with disciplinary action.

27          10.    Section 44072.8 of the Health and Safety Code states:

28                     When a license has been revoked or suspended following a hearing under  
this article, any additional license issued under this chapter in the name of the  
licensee may be likewise revoked or suspended by the director.

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1 COST RECOVERY

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

6 **UNDERCOVER OPERATION – JANUARY 27, 2010**

7 12. On January 27, 2010, a Bureau undercover (“operator”) drove a Bureau-documented  
8 1997 Pontiac Grand Am to Respondent’s facility for a smog inspection. The vehicle could not  
9 pass a smog inspection because the vehicle’s fuel evaporative canister was missing. Jon Kelly  
10 Gifford, a licensed technician, performed the smog inspection and issued electronic Certificate of  
11 Compliance No. WF974329, certifying that he had tested and inspected the 1997 Pontiac Grand  
12 Am and that the vehicle was in compliance with applicable laws and regulations. In fact, the  
13 vehicle could not have passed the visual portion of the smog inspection because the vehicle’s fuel  
14 evaporative canister was missing.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 13. Respondent’s registration is subject to discipline pursuant to Code section 9884.7,  
18 subdivision (a)(1), in that on or about January 27, 2010, Respondent made or authorized  
19 statements which it knew or in the exercise of reasonable care it should have known to be untrue  
20 or misleading by issuing electronic Certificate of Compliance No. WF974329 for the 1997  
21 Pontiac Grand Am, certifying that the vehicle was in compliance with applicable laws and  
22 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection  
23 because the vehicle’s fuel evaporative canister was missing.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Failure to Document Current Odometer Reading on Work Order)**

26 14. Respondent’s registration is subject to discipline pursuant to Code section 9884.7.  
27 subdivision (a)(2), in that on or about January 27, 2010, Respondent allowed the operator to sign  
28 Work Order No. 128605, which did not contain the vehicle’s current odometer reading.



1 d. **Section 44059:** Respondent willfully made false entries for electronic Certificate of  
2 Compliance No. WF974329, certifying that the vehicle had been inspected as required when, in  
3 fact, it had not.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant to the**  
6 **Motor Vehicle Inspection Program)**

7 18. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
8 section 44072.2, subdivision (c), in that on or about January 27, 2010, regarding the 1997 Pontiac  
9 Grand Am, Respondent failed to comply with provisions of California Code of Regulations, title  
10 16, as follows:

11 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
12 electronic Certificate of Compliance No. WF974329, in that the vehicle could not pass the visual  
13 portion of the smog inspection because the vehicle's fuel evaporative canister was missing.

14 b. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of  
15 Compliance No. WF974329 even though that vehicle had not been inspected in accordance with  
16 section 3340.42.

17 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on that  
18 vehicle in accordance with the Bureau's specifications.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud or Deceit)**

21 19. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
22 section 44072.2, subdivision (d), in that on or about January 27, 2010, Respondent committed  
23 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate  
24 of Compliance No. WF974329 for the 1997 Pontiac Grand Am without performing a bona fide  
25 inspection of the emission control devices and systems on that vehicle, thereby depriving the  
26 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
27 Program.  
28

1 PRIOR CITATIONS

2 20. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges as follows:

4 a. On or about October 28, 2008, the Bureau issued Citation No. C09-0483 against  
5 Respondent's registration and station licenses for violations of Health & Safety Code section  
6 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices  
7 according to procedures prescribed by the department); and, California Code of Regulations, title  
8 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of compliance to a  
9 vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau undercover  
10 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. The Bureau  
11 assessed civil penalties totaling \$500 against Respondent for the violations.

12 b. On or about April 22, 2009, the Bureau issued Citation No. C09-1221 against  
13 Respondent's registration and station licenses for violations of Health & Safety Code section  
14 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices  
15 according to procedures prescribed by the department); and, California Code of Regulations, title  
16 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of compliance to a  
17 vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau undercover  
18 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. The Bureau  
19 assessed civil penalties totaling \$1,000 against Respondent for the violations.

20 c. On or about September 29, 2009, the Bureau issued Citation No. C2010-0276 against  
21 Respondent's registration and station licenses for violations of Health & Safety Code section  
22 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices  
23 according to procedures prescribed by the department); and, California Code of Regulations, title  
24 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of compliance to a  
25 vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau undercover  
26 vehicle with a missing exhaust gas recirculation valve. The Bureau assessed civil penalties  
27 totaling \$2,000 against Respondent for the violations.

28



1           5.     Ordering Cal Smog Inspection, dba, Cal Smog Inspection Center Inc. to pay the  
2 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this  
3 case, pursuant to Business and Professions Code section 125.3; and,

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

5  
6  
7 DATED: \_\_\_\_\_

04/13/10

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

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