

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

In the Matter of the Accusation Against:

EZ SMOG CHECK
EZAT SETAYESH, Owner
2231 El Camino Real
San Clemente, CA 92672

Mailing Address:
27200 La Paz Road, Suite D
Mission Viejo, CA 92692

Automotive Repair Dealer Registration
No. ARD 217728
Smog Check, Test Only, Station License
No. TC 217728

Respondent.

Case No. 79/11-102

OAH No. 2011090179

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 5/25/12

DATED: April 18, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/11-102

13 **EZ SMOG CHECK**
14 **EZAT SETAYESH, OWNER**
15 **2231 El Camino Real**
San Clemente, CA 92672

OAH No. 2011090179

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 **Mailing Address:**
17 **27200 La Paz Road, Suite D**
Mission Viejo, CA 92692

18 **Automotive Repair Dealer Reg. No. ARD**
19 **217728**

20 **Smog Check Test Only Station License No.**
TC 217728

21 Respondent.

22
23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
25 Automotive Repair the parties hereby agree to the following Stipulated Settlement and
26 Disciplinary Order which will be submitted to the Director for his approval and adoption as the
27 final disposition of the Accusation.

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1 PARTIES

2 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
3 brought this action solely in his official capacity and is represented in this matter by Kamala D.
4 Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney
5 General.

6 2. Respondent EZ Smog Check; Ezat Setayesh, Owner (Respondent) is represented in
7 this proceeding by attorney Michael B. Levin, Esq., whose address is: 3727 Camino del Rio
8 South, Suite 200, San Diego, CA 92108-4035.

9 3. On or about January 1, 2001, the Bureau of Automotive Repair issued Automotive
10 Repair Dealer Registration No. ARD 217728 (registration) to Respondent. The registration was
11 in full force and effect at all times relevant to the charges brought in Accusation No. 79/11-102
12 and will expire on August 31, 2012, unless renewed.

13 4. On or about July 19, 2002, the Bureau of Automotive Repair issued Smog Check Test
14 Only Station License No. TC 217728 (smog check station license) to EZ Smog Check; Ezat
15 Setayesh, Owner (Respondent). The smog check station license was in full force and effect at all
16 times relevant to the charges brought in Accusation No. 79/11-102 and will expire on August 31,
17 2012, unless renewed.

18 JURISDICTION

19 5. Accusation No. 79/11-102 was filed before the Director of Consumer Affairs
20 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
21 Respondent. The Accusation and all other statutorily required documents were properly served
22 on Respondent on July 14, 2011. Respondent timely filed a Notice of Defense contesting the
23 Accusation.

24 6. A copy of Accusation No. 79/11-102 is attached as exhibit A and incorporated herein
25 by reference.

26 ADVISEMENT AND WAIVERS

27 7. Respondent has carefully read, fully discussed with counsel, and understands the
28 charges and allegations in Accusation No. 79/11-102. Respondent has also carefully read, fully

1 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
2 Order.

3 8. Respondent is fully aware of his legal rights in this matter, including the right to a
4 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
5 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
6 to the issuance of subpoenas to compel the attendance of witnesses and the production of
7 documents; the right to reconsideration and court review of an adverse decision; and all other
8 rights accorded by the California Administrative Procedure Act and other applicable laws.

9 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
10 every right set forth above.

11 CULPABILITY

12 10. Respondent admits the truth of each and every charge and allegation in Accusation
13 No. 79/11-102.

14 11. Respondent agrees that the registration and smog check station license are subject to
15 discipline and agrees to be bound by the Director's probationary terms as set forth in the
16 Disciplinary Order below.

17 RESERVATION

18 12. The admissions made by Respondent herein are only for the purposes of this
19 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
20 Automotive Repair, or other professional licensing agency is involved, and shall not be
21 admissible in any other criminal or civil proceeding.

22 CONTINGENCY

23 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or
24 his designee. Respondent understands and agrees that counsel for Complainant and the staff of
25 the Bureau of Automotive Repair may communicate directly with the Director and staff of the
26 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
27 participation by Respondent or its counsel. By signing the stipulation, Respondent understands
28 and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the

1 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
2 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
3 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
4 and the Director shall not be disqualified from further action by having considered this matter.

5 14. The parties understand and agree that facsimile and emailed copies of this Stipulated
6 Settlement and Disciplinary Order, including facsimile and emailed signatures thereto, shall have
7 the same force and effect as the originals.

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

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

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 217728,
19 and Smog Check Test Only Station License No. TC 217728, issued to Respondent EZ Smog
20 Check; Ezat Setayesh, Owner (Respondent) are revoked. However, the revocation is stayed and
21 Respondent is placed on probation for three (3) years on the following terms and conditions.

22 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 217728, and
23 Smog Check Test Only Station License No. TC 217728 issued to Respondent Ezat Setayesh are
24 suspended for ten (10) consecutive days beginning on the effective date of the decision.

25 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
26 automotive inspections, estimates and repairs.

27 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
28 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be

1 conspicuously displayed in a location open to and frequented by customers and shall remain
2 posted during the entire period of actual suspension.

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

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

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

13 7. **Jurisdiction.** If an accusation or petition to revoke probation is filed against
14 Respondent during the term of probation, the Director of Consumer Affairs shall have continuing
15 jurisdiction over this matter until the final decision on the accusation or petition to revoke
16 probation, and the period of probation shall be extended until such decision.

17 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
18 Respondent has failed to comply with the terms and conditions of probation, the Department may,
19 after giving notice and opportunity to be heard, suspend or revoke the registration and/or smog
20 check station license.

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

25 10. **Cost Recovery.** Payment to the Bureau in the amount of \$11,986.96 for the Bureau's
26 investigation and prosecution costs shall be made by certified payments (cashier's check or
27 money order) of twenty four (24) equal monthly installment payments with final payment due
28 twelve months before termination of probation. Failure to complete payment of cost recovery

1 within this time frame shall constitute a violation of probation which may subject Respondent's
2 registration and/or smog check station license to outright revocation; however, the Director or the
3 Director's Bureau of Automotive Repair designee may elect to continue probation until such time
4 as reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

I am the owner of EZ Smog Check and I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael B. Levin, Esq. I understand the stipulation and the effect it will have on Automotive Repair Dealer Registration No. ARD 217728, and Smog Check Test Only Station License No. TC 217728, issued to Respondent EZ Smog Check. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to bind Respondent EZ Smog Check to the Decision and Order of the Director of Consumer Affairs.

DATED: 3/26/2012 Ezat Setayesh
EZ SMOG CHECK
EZAT SETAYESH, OWNER
Respondent

I have read and fully discussed with Ezat Setayesh, owner of Respondent EZ Smog Check, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/26/12 Michael B Levin
MICHAEL B. LEVIN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 3/26/12 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
Adrian R. Contreras
ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 79/11-102

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
4 State Bar No. 132645
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5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
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. 79/11-102

13 **EZ SMOG CHECK**
14 **EZAT SETAYESH, OWNER**
15 **2231 El Camino Real**
San Clemente, CA 92672
16 **Mailing Address:**
27200 La Paz Road, Suite D
17 **Mission Viejo, CA 92692**
Automotive Repair Dealer Reg. No. ARD 217728
18 **Smog Check Test Only Station License No. TC**
217728

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

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

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

25 2. In or about 2001, the Director of Consumer Affairs ("Director") issued Automotive
26 Repair Dealer Registration Number ARD 217728 ("registration") to Ezat Setayesh
27 ("Respondent"), owner of EZ Smog Check. Respondent's registration was in full force and effect

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1 at all times relevant to the charges brought herein and will expire on August 31, 2011, unless
2 renewed.

3 3. On or about July 29, 2002, the Director issued Smog Check Test Only Station
4 License Number TC 217728 ("smog check station license") to Respondent. Respondent's smog
5 check station license was in full force and effect at all times relevant to the charges brought herein
6 and will expire on August 31, 2011, unless renewed.

7 JURISDICTION

8 4. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
9 the Director may revoke an automotive repair dealer registration.

10 5. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
11 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
12 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
13 invalidating (revoking or suspending) a registration.

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

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

21 STATUTORY PROVISIONS

22 8. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

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(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct that constitutes fraud.

....

(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.

9. Bus. & Prof. Code section 22, subdivision (a), states:

“Board” as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

10. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes “registration” and “certificate.”

11. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

....

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

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

12. Health & Saf. Code section 44072.10 states, in pertinent part:

....

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

....

1 (4) Intentional or willful violation of this chapter or any regulation,
standard, or procedure of the department implementing this chapter . . .

2 13. 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 14. 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: 1988 TOYOTA COROLLA**

11 15. On September 3, 2010, an undercover operator of the Bureau (hereinafter "operator")
12 took the Bureau's 1988 Toyota Corolla to Respondent's facility and requested a smog inspection.
13 The air injection (AI) system was missing. The operator signed a written estimate for the
14 inspection, but was not given a copy at that time. After the inspection was completed, the
15 operator paid \$74.75 and received copies of an invoice and a vehicle inspection report. The
16 vehicle inspection report indicated that the smog inspection was performed by Respondent's
17 technician, Sohrab Shad. That same day, electronic smog Certificate of Compliance No.
18 WN512527C was issued for the vehicle.

19 16. On September 22, 2010, the Bureau inspected the vehicle and found that the AI
20 system was still missing.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 17. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section
24 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which he knew, or
25 in the exercise of reasonable care should have known to be untrue or misleading, as follows:
26 Respondent's smog check technician, Sohrab Shad, certified under penalty of perjury on the
27 vehicle inspection report that the Bureau's 1988 Toyota Corolla had passed the inspection and
28 was in compliance with applicable laws and regulations. In fact, the AI system had been removed

1 from the vehicle and as such, the vehicle would not pass the inspection required by Health & Saf.
2 Code section 44012.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Customer with Copy of Signed Document)**

5 18. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(3), in that Respondent failed to provide the operator with a
7 copy of the written estimate as soon as the operator signed the document.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 19. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
11 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
12 fraud, as follows: Respondent issued an electronic smog certificate of compliance for the
13 Bureau's 1988 Toyota Corolla without ensuring that a bona fide inspection was performed of the
14 emission control devices and systems on the vehicle, thereby depriving the People of the State of
15 California of the protection afforded by the Motor Vehicle Inspection Program.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Violations of the Motor Vehicle Inspection Program)**

18 20. Respondent's smog check station license is subject to disciplinary action pursuant to
19 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the
20 following sections of that Code:

21 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
22 performed on the Bureau's 1988 Toyota Corolla in accordance with procedures prescribed by the
23 department.

24 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
25 the Bureau's 1988 Toyota Corolla without ensuring that the vehicle was properly tested and
26 inspected to determine if it was in compliance with Health & Saf. Code section 44012.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 21. Respondent's smog check station license is subject to disciplinary action pursuant to
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the
6 following sections of California Code of Regulations, title 16:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
8 electronic smog certificate of compliance for the Bureau's 1988 Toyota Corolla.

9 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
10 of compliance for the Bureau's 1988 Toyota Corolla even though the vehicle had not been
11 inspected in accordance with section 3340.42.

12 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
13 conducted on the Bureau's 1988 Toyota Corolla in accordance with the Bureau's specifications.

14 **SIXTH CAUSE FOR DISCIPLINE**

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

16 22. Respondent's smog check station license is subject to disciplinary action pursuant to
17 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
18 fraudulent, or deceitful act whereby another is injured, as follows: Respondent issued an
19 electronic smog certificate of compliance for the Bureau's 1988 Toyota Corolla without ensuring
20 that a bona fide inspection was performed of the emission control devices and systems on the
21 vehicle, thereby depriving the People of the State of California of the protection afforded by the
22 Motor Vehicle Inspection Program.

23 **MATTERS IN AGGRAVATION**

24 23. To determine the degree of discipline, if any, to be imposed on Respondent,
25 Complainant alleges as follows:

26 a. On or about May 21, 2007, the Bureau issued Citation No. C07-0922 against
27 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
28 determine that emission control devices and systems required by State and Federal law are

1 installed and functioning correctly in accordance with test procedures); and California Code of
2 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
3 compliance to a vehicle that was improperly tested). Respondent had issued a certificate of
4 compliance to a Bureau undercover vehicle with a missing fuel evaporative system charcoal
5 canister. The Bureau assessed civil penalties totaling \$500 against Respondent for the violations.
6 Respondent complied with the citation on June 25, 2007.

7 b. On or about January 3, 2008, the Bureau issued Citation No. C08-0599 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 Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
11 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
12 Bureau undercover vehicle with a non-functional EGR valve. The Bureau assessed civil penalties
13 totaling \$1,000 against Respondent for the violations. Respondent complied with the citation on
14 January 30, 2008.

15 c. On or about January 29, 2010, the Bureau issued Citation No. C2010-0768 against
16 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
17 perform a visual/functional check of emission control devices according to procedures prescribed
18 by the department); and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
19 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
20 Bureau undercover vehicle with a missing positive crankcase ventilation ("PCV") system. The
21 Bureau assessed civil penalties totaling \$500 against Respondent for the violations. Respondent
22 complied with the citation on March 8, 2010.

23 d. On or about June 10, 2010, the Bureau issued Citation No. C2010-1269 against
24 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
25 perform a visual/functional check of emission control devices according to procedures prescribed
26 by the department); and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
27 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
28 Bureau undercover vehicle with a missing PCV system. The Bureau assessed a civil penalty of

1 \$1,500 against Respondent for the violations. Respondent complied with the citation on July 14,
2 2010.

3 **OTHER MATTERS**

4 24. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
5 suspend, revoke, or place on probation the registration for all places of business operated in this
6 state by Respondent Ezat Setayesh, owner of EZ Smog Check, upon a finding that Respondent
7 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
8 pertaining to an automotive repair dealer.

9 25. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
10 License Number TC 217728, issued to Respondent Ezat Setayesh, owner of EZ Smog Check, is
11 revoked or suspended, any additional license issued under this chapter in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 **PRAYER**

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

- 16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 217728, issued to Ezat Setayesh, owner of EZ Smog Check;
- 18 2. Revoking or suspending any other automotive repair dealer registration issued to Ezat
19 Setayesh;
- 20 3. Revoking or suspending Smog Check Test Only Station License Number TC 217728,
21 issued to Ezat Setayesh, owner of EZ Smog Check;
- 22 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
23 and Safety Code in the name of Ezat Setayesh;
- 24 5. Ordering Ezat Setayesh, owner of EZ Smog Check, to pay the Director of Consumer
25 Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to
26 Business and Professions Code section 125.3;

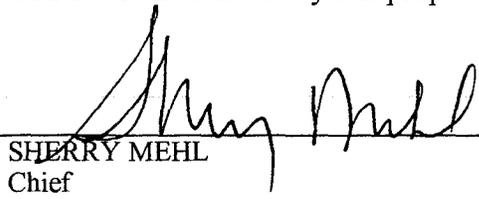
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6. Taking such other and further action as deemed necessary and proper.

DATED: 6/29/11



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

SD2011700392