

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

In the Matter of the Accusation Against:

TAMPA SMOG TEST ONLY
8332 Tampa Avenue, Unit 2B
Northridge, California 91324
NARINRAT P. KUSUPHOLNAND,
OWNER

Case No. 79/10-33

OAH No. [Unassigned]

Automotive Repair Dealer Registration No.
ARD 245147
Smog Check Test Only Station License No.
TC 245147.

and

PARAMESR KUSUPHOLNAND
2245 Tapo Street, Unit 103
Simi Valley, California 93063

Advanced Emission Specialist Technician
License No. EA 150126

Respondents.

DECISION AND ORDER

The attached Stipulated Revocation of License and Order is hereby adopted by the Director of Consumer Affairs and the Bureau of Automotive Repair as the Decision and Order in the above entitled matter.

This Decision shall become effective on March 15, 2010.

It is so ORDERED March 15, 2010.


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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Attorneys for Complainant
7

8 **BEFORE THE**
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 79/10-33

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NARINRAT P. KUSUPHOLNAND,
14 **OWNER**

OAH No. [Unassigned]

STIPULATED REVOCATION OF
LICENSES AND ORDER

15 Automotive Repair Dealer Registration No.
16 ARD 245147
17 Smog Check Test Only Station License No.
TC 245147.

18 and

19 **PARAMESR KUSUPHOLNAND**
2245 Tapo Street, Unit 103
20 Simi Valley, California 93063

21 Advanced Emission Specialist Technician
22 License No. EA 150126

23
24 Respondents.

25
26 In the interest of a prompt and speedy settlement of this matter, consistent with the public
27 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
28 Automotive Repair, the parties hereby agree to the following Stipulated Revocation of Licenses

1 and Order, which will be submitted to the Director for his approval and adoption as the final
2 disposition of the Accusation with respect to Narinrat P. Kusupholnand, as Owner of Tampa
3 Smog Test Only (Respondent Tampa Smog), and Paramesr Kusupholnand (Respondent P.
4 Kusupholnand).

5 PARTIES

6 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair
7 (Bureau). She brought this action solely in her official capacity and is represented in this matter
8 by Edmund G. Brown Jr., Attorney General of the State of California, by Kevin J. Rigley, Deputy
9 Attorney General.

10 2. Respondents Tampa Smog and P. Kusupholnand are represented in these proceedings
11 by attorney Bob Bernstein, whose address is 3727 W. Magnolia Blvd., Suite 767, Burbank, CA
12 91505.

13 3. On or about June 20, 2006, the Director of Consumer Affairs (Director) issued
14 Automotive Repair Dealer Registration (ARD registration) Number ARD 245147 to Respondent
15 Tampa Smog. Respondent Tampa Smog's ARD registration was in full force and effect at
16 all times relevant to the charges brought in Accusation No. 79/10-33, and will expire on May 31,
17 2010, unless renewed.

18 4. On or about June 28, 2006, the Director issued Smog Check, Test Only Station
19 License (station license) Number TC 245147 to Respondent Tampa Smog. Respondent Tampa
20 Smog's station license was in full force and effect at all times relevant to the charges brought in
21 Accusation No. 79/10-33, and will expire on May 31, 2010, unless renewed.

22 5. In or about 2004, the Director issued Advanced Emission Specialist Technician
23 License (technician license) Number EA 150126 to Respondent P. Kusupholnand. Respondent P.
24 Kusupholnand's technician license was in full force and effect at all times relevant to the charges
25 brought in Accusation No. 79/10-33, and will expire on April 30, 2011, unless renewed.

26 JURISDICTION

27 6. Accusation No. 79/10-33 was filed before the Director of Consumer Affairs
28 (Director), for the Bureau, and is currently pending against Respondents. The Accusation and all

1 other statutorily required documents were properly served on Respondents on September 3, 2009.
2 Respondents timely filed their Notice of Defense contesting the Accusation. A copy of
3 Accusation No. 79/10-33 is attached as Exhibit A and incorporated herein by reference.

4 ADVISEMENT AND WAIVERS

5 7. Respondents have carefully read, fully discussed with counsel, and understand the
6 charges and allegations in Accusation No. 79/10-33. Respondents have also carefully read, fully
7 discussed with counsel, and understand the effects of this Stipulated Revocation of Licenses and
8 Order.

9 8. Respondents are fully aware of their legal rights in this matter, including the right to a
10 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
11 their own expense; the right to confront and cross-examine the witnesses against them; the right
12 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
13 compel the attendance of witnesses and the production of documents; the right to reconsideration
14 and court review of an adverse decision; and all other rights accorded by the California
15 Administrative Procedure Act and other applicable laws.

16 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
17 every right set forth above.

18 CULPABILITY

19 10. Respondents admit the truth of each and every charge and allegation in Accusation
20 No. 79/10-33.

21 11. Respondent Tampa Smog agrees that its ARD registration and station license are both
22 subject to discipline and as such, agrees to be bound by the Director's imposition of discipline as
23 set forth in the Disciplinary Order below.

24 12. Respondent P. Kusupholnand agrees that his technician license is subject to discipline
25 and as such, agrees to be bound by the Director's imposition of discipline as set forth in the
26 Disciplinary Order below.

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CONTINGENCY

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2 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or
3 his designee. Respondents understand and agree that counsel for Complainant and the staff of the
4 Bureau of Automotive Repair may communicate directly with the Director and staff of the
5 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
6 participation by Respondents or their counsel. By signing the stipulation, Respondents
7 understand and agree that they may not withdraw from this agreement or seek to rescind the
8 stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt
9 this stipulation as the Decision and Order, the Stipulated Revocation of Licenses and Order shall
10 be of no force or effect, and, except for this paragraph, it shall be inadmissible in any legal action
11 between the parties, and the Director shall not be disqualified from further action by having
12 considered this matter.

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

16 15. This Stipulated Revocation of Licenses and Order is intended by the parties to be an
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
19 negotiations, and commitments (written or oral). This Stipulated Revocation of Licenses and
20 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
21 writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

25
26 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 245147
27 issued to Respondent Tampa Smog is permanently invalidated. FURTHER, Smog Check, Test
28 Only Station License No. TC 245147 issued to Respondent Tampa Smog and Advanced Emission

1 Specialist Technician License No. EA 150126, issued to Respondent P. Kusupholnand are
2 revoked.

3 1. The permanent invalidation of Respondent Tampa Smog's ARD registration, and the
4 revocation of Respondent Tampa Smog's station license and Respondent P. Kusupholnand's
5 technician license, and the acceptance of the permanently invalidated registration and revoked
6 licenses by the Director and Bureau, shall constitute the imposition of discipline against
7 Respondents. This stipulation constitutes a record of discipline and shall become part of the
8 Respondents' license histories with the Bureau.

9 2. Respondent Tampa Smog shall lose all rights and privileges as an Automotive Repair
10 Dealer and Smog Check, Test Only Station in the State of California as of the effective date of the
11 Director's Decision and Order.

12 3. Respondent P. Kusupholnand shall lose all rights and privileges as an Advanced
13 Emission Specialist Technician in the State of California as of the effective date of the Director's
14 Decision and Order.

15 4. Respondents shall cause to be delivered to the Bureau their Automotive Repair Dealer
16 Registration, Smog Check, Test Only Station License and Advanced Emission Specialist
17 Technician License, and, if issued, all pocket and wall license certificates, on or before the
18 effective date of the Decision and Order.

19 5. Respondents fully understand and agree that if they should ever file an application for
20 licensure, or petition for reinstatement in the State of California, the Bureau and Director shall
21 treat it as a new application for licensure. Respondents must comply with all laws, regulations
22 and procedures for application of a new license at the time the application is filed, and all of the
23 charges and allegations contained in Accusation No. 79/10-33 shall be deemed true, correct and
24 admitted by Respondents when the Director determines whether to grant or deny the application.

25 6. Respondents shall pay the Bureau its costs of investigation and enforcement in the
26 amount of \$17,595.20 prior to making any application for a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Revocation of Licenses and Order and have fully discussed it with my attorney, Bob Bernstein. 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 Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

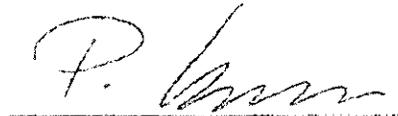
DATED: 2-12-10


NARINRAT KUSUPHOLNAND, OWNER OF
TAMPA SMOG TEST ONLY
Respor dent Tampa Smog

I have carefully read the above Stipulated Revocation of Licenses and Order and have fully discussed it with my attorney, Bob Bernstein. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician license.

I enter into this Stipulated Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

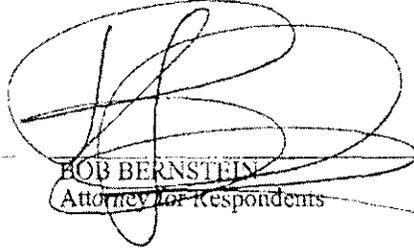
DATED: 2-12-10


PARAMESR KUSUPHOLNAND
Respor dent P. Kusupholnand

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1 I have read and fully discussed with Respondents the terms and conditions and other
2 matters contained in the above Stipulated Revocation of Licenses and Order. I approve its form
3 and content.

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5 DATED: 2.17.10.



BOB BERNSTEIN
Attorney for Respondents

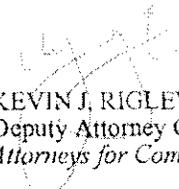
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9 ENDORSEMENT

10 The foregoing Stipulated Revocation of Licenses and Order is hereby respectfully
11 submitted for consideration by the Director of Consumer Affairs.

12
13 Dated: 2/18/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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16 **OWNER**
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18 **ARD 245147**
19 **Smog Check Test Only Station License No.**
20 **TC 245147,**

ACCUSATION
SMOG CHECK

17 and

18 **PARAMESR KUSUPHOLNAND**
19 **2245 Tapo Street, Unit 103**
20 **Simi Valley, California 93063**
21 **Advanced Emission Specialist Technician**
22 **License No. EA 150126**

21 Respondents.

24 Complainant alleges:

25 **PARTIES**

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

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1 specific place of business which has violated any of the provisions of this chapter.
2 This violation, or action by the director, shall not affect in any manner the right of the
3 automotive repair dealer to operate his or her other places of business.

4 (c) Notwithstanding subdivision (b), the director may invalidate
5 temporarily or permanently, the registration for all places of business operated in this
6 state by an automotive repair dealer upon a finding that the automotive repair dealer
7 has, or is, engaged in a course of repeated and willful violations of this chapter, or
8 regulations adopted pursuant to it.

9 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
10 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
11 proceeding against an automotive repair dealer or to render a decision invalidating a registration
12 temporarily or permanently.

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

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

20 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

10. Section 44072.10, subdivision (c) states, in pertinent part:

(c) The department shall revoke the license of any smog check technician
or station license that fraudulently certifies vehicles or participates in the fraudulent
inspection of vehicles....

Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
4/24/2009 1610 hours to 1621 hours	1994 Mercedes Lic. No. 5KUV739	White Volkswagen Golf	NI928389C
4/24/2009 1736 hours to 1745 hours	1980 Ford Van Lic. No. 2P20478	White Volkswagen Golf	NI928390C
4/24/2009 1913 hours to 1931 hours	1990 Nissan Lic. No. 2VOE385	White Volkswagen Golf	NI928392C
4/24/2009 2016 hours to 2030 hours	1995 Ford Lic. No. 5G91156	Dark Toyota Camry	NI928393C
4/24/2009 2043 hours to 2052 hours	1979 Dodge Lic. No. 5G26861	Dark Toyota Camry	NI928394C

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

15. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand, has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about April 24, 2009, its owner made statements which it knew or which by exercise of reasonable care should have known were untrue or misleading when it issued electronic certificates of compliance for the vehicles set forth in Table 1 above by certifying that those vehicles were in compliance with applicable laws and regulations when in fact, the vehicles had been clean-piped.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 18. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand,
4 has subjected its station license to discipline under Health and Safety Code section 44072.2,
5 subdivision (c), in that on or about April 24, 2009, regarding the vehicles set forth in Table 1
6 above, it violated sections of the California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Tampa Smog falsely or fraudulently
8 issued the electronic certificates of compliance without performing bona fide inspections of the
9 emission control devices and systems on those vehicles as required by Health and Safety Code
10 section 44012.

11 b. **Section 3340.35, subdivision (c)**: Respondent Tampa Smog issued the electronic
12 certificates of compliance even though those vehicles had not been inspected in accordance with
13 section 3340.42 of that Code.

14 c. **Section 3340.42**: Respondent Tampa Smog failed to conduct the required smog tests
15 and inspections in accordance with the Bureau's specifications.

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 19. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand,
19 has subjected its station license to discipline under Health and Safety Code section 44072.2,
20 subdivision (d), in that on or about April 24, 2009, regarding the vehicles set forth in Table 1
21 above, it committed acts involving dishonesty, fraud or deceit resulting in injury to another by
22 issuing electronic certificates of compliance for those vehicles without performing bona fide
23 inspections of the emission control devices and systems on those vehicles, thereby depriving the
24 People of the State of California of the protection afforded by the Motor Vehicle Inspection
25 Program.

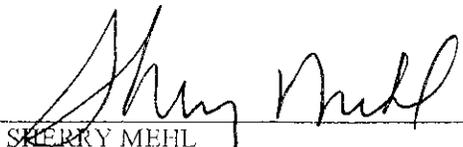
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8. Taking such other and further action as deemed necessary and proper.

DATED: 11/9/09



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

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