

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

In the Matter of the Accusation Against:

HOOVER AUTO TECH SMOG;
SHARON M. KIM, Owner
2211 S. Hoover Street
Los Angeles, CA 90007

Automotive Repair Dealer Registration
No. ARD 252719
Smog Check Test Only Station License
No. TC 252719

Respondent.

Case No. 79/09-78

OAH No. L-2009070562

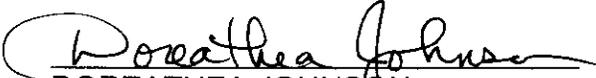
DECISION

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 252719 and Smog Check Test Only Station License No. TC 252719 shall commence on the effective date of this Decision.

This Decision shall become effective 1/19/10.

DATED: December 10, 2009


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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:

13 **HOOVER AUTO TECH SMOG; SHARON**
14 **M. KIM, OWNER**
15 **2211 S. Hoover Street**
16 **Los Angeles, CA 90007**
17 **Automotive Repair Dealer Registration**
18 **No. ARD252719**
19 **Smog Check Test Only Station License**
20 **No. TC252719**

21 Respondents.

Case No. 79/09-78

OAH No. L-2009070562

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

24 PARTIES

25 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
26 brought this action solely in her official capacity and is represented in this matter by Edmund G.
27 Brown Jr., Attorney General of the State of California, by Thomas L. Rinaldi, Deputy Attorney
28 General.

2. Hoover Auto Tech Smog; Sharon M. Kim, Owner (Respondent) is represented in this
proceeding by attorney Jeffrey T. Osborn, Esq., whose address is 16152 Beach Blvd., Ste. 250,
Huntington Beach, CA 92647.2.1.

1 in any other business required to be registered pursuant to Section 9884.6 of the Business and
2 Professions Code.

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

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

9 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
10 Respondent has failed to comply with the terms and conditions of probation, the Department may,
11 after giving notice and opportunity to be heard temporarily or permanently invalidate
12 Respondent's ARD registration and suspend or revoke her smog check station license.

13 9. **Cost Recovery.** Payment to the Bureau of cost recovery in the amount of three
14 thousand one hundred and fifty dollars (\$3,150.00) shall be received no later than 6 months
15 before probation terminates. Failure to complete payment of cost recovery within this time frame
16 shall constitute a violation of probation which may subject Respondent's ARD registration and
17 smog check station license to outright revocation; however, the Director or the Director's
18 designee may elect to continue probation until such time as reimbursement of the entire cost
19 recovery amount has been made to the Bureau.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Jeffrey T. Osborn, Esq. I understand the stipulation and the effect
23 it will have on my Automotive Repair Dealer registration and Smog Check Test Only.

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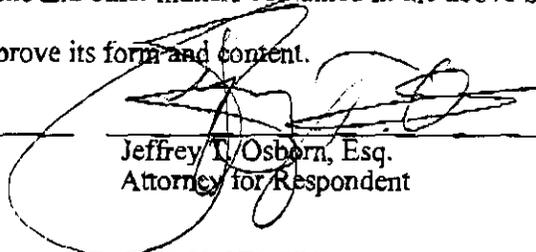
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1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
3 Affairs.

4 DATED: 11/14/09 
5 HOOVER AUTO TECH SMOG; SHARON M. KIM,
6 OWNER
7 Respondent

8 I have read and fully discussed with Respondent Hoover Auto Tech Smog; Sharon M. Kim,
9 Owner the terms and conditions and other matters contained in the above Stipulated Settlement
10 and Disciplinary Order. I approve its form and content.

11 DATED: 11/20/09 
12 Jeffrey T. Osborn, Esq.
13 Attorney for Respondent

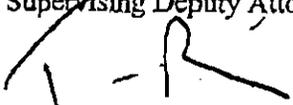
ENDORSEMENT

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

16 Dated: 12/4/09

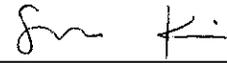
Respectfully Submitted,

17 EDMUND G. BROWN JR.
18 Attorney General of California
19 KAREN B. CHAPPELLE
20 Supervising Deputy Attorney General

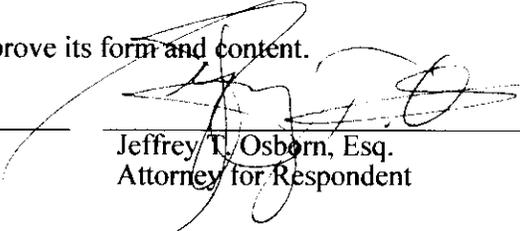

21 THOMAS L. RINALDI
22 Deputy Attorney General
23 Attorneys for Complainant

24 LA2008900434

1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
3 Affairs.

4 DATED: 11/14/09 
5 HOOVER AUTO TECH SMOG; SHARON M. KIM,
6 OWNER
7 Respondent

8 I have read and fully discussed with Respondent Hoover Auto Tech Smog; Sharon M. Kim,
9 Owner the terms and conditions and other matters contained in the above Stipulated Settlement
10 and Disciplinary Order. I approve its form and content.

11 DATED: 11/20/09 
12 Jeffrey T. Osborn, Esq.
13 Attorney for Respondent

14 ENDORSEMENT

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

17 Dated: _____

18 Respectfully Submitted,
19 EDMUND G. BROWN JR.
20 Attorney General of California
21 KAREN B. CHAPPELLE
22 Supervising Deputy Attorney General

23 THOMAS L. RINALDI
24 Deputy Attorney General
25 *Attorneys for Complainant*

26 LA2008900434

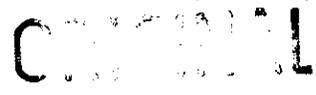


Exhibit A

Accusation No. 79/09-78

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
4 Telephone: (213) 897-2520
Facsimile: (213) 897-2804

5 Attorneys for Complainant

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

9 In the Matter of the Accusation Against:

Case No. 79/09-78

10 **HOOVER AUTO TECH SMOG**

11 2211 S. Hoover Street
Los Angeles, CA 90007

12 **SHARON M. KIM, OWNER**

13 Automotive Repair Dealer Registration No.
ARD 252719

14 Smog Check, Test Only, Station License No.
TC 252719

15 and

16 **GUILLERMO DE LA GARZA, SR.**

17 1349 S. Union Ave., #A
Los Angeles, CA 90015

18 Advanced Emission Specialist Technician
19 License No. EA 037499

20 Respondents.

ACCUSATION

SMOG CHECK

21
22 Complainant alleges:

23 **PARTIES**

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

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- (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 44072.8 states that 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.

Cost Recovery

13. 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.

VIDEO SURVEILLANCE OF MAY 21, 2008

14. On May 21, 2008, a representative of the Bureau conducted a video surveillance operation of Respondent Kim's smog check facility, Hoover Auto Tech Smog (hereinafter "smog check facility"). The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 0903 hours and 0923 hours, Respondent De La Garza performed a smog inspection that resulted in the issuance of the electronic certificate of compliance for the vehicle set forth in Table One, below, certifying that he had tested and inspected the vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent De La Garza performed the smog inspection using the clean piping¹ method by using the tail pipe emissions of a vehicle other than the vehicle being certified in order to issue the certificate of compliance. The vehicle certified was not in the test bay at the time of the smog inspection.

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1. Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t), "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to cause the Emission Inspection System to issue a certificate of compliance for another vehicle.

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Table One

Test Times	Vehicle Certified	Vehicle Actually Tested	Cert Issued
0903 - 0923	1984 Toyota Camry Lic. No. 4UKZ234	1988 Toyota Camry License #4LRV091	NA651296C

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

15. Respondent Kim has subjected her registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about May 21, 2008, she made statements which she knew or which by exercise of reasonable care she should have known were untrue or misleading by issuing an electronic certificate of compliance for the vehicle set forth in Table One, above, certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

16. Respondent Kim has subjected her registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about May 21, 2008, she committed an act which constituted fraud by issuing the electronic certificate of compliance for the vehicle set forth in Table One, above, without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

17. Respondent Kim has subjected her station license to discipline under Health and Saf. Code section 44072.2, subdivision (a), in that on or about May 21, 2008, regarding the electronic certificate of compliance and the vehicle set forth in Table One, above, she violated sections of that Code, as follows:

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1 a. **Section 44012, subdivision (f):** Respondent Kim failed to perform
2 emission control tests on the vehicle in accordance with procedures prescribed by the department.

3 b. **Section 44015, subdivision (b):** Respondent Kim issued the electronic
4 certificate of compliance for the vehicle without properly testing and inspecting the vehicle to
5 determine if it was in compliance with section 44012 of that Code.

6 c. **Section 44059:** Respondent Kim willfully made a false entry for the
7 electronic certificate of compliance by certifying that the vehicle had been inspected as required
8 when, in fact, it had not.

9 **FOURTH CAUSE FOR DISCIPLINE**

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

11 18. Respondent Kim has subjected her station license to discipline under
12 Health and Saf. Code section 44072.2, subdivision (c), in that on or about May 21, 2008,
13 regarding the electronic certificate of compliance and the vehicle set forth in Table One, above,
14 she violated sections of the California Code of Regulations, title 16, as follows:

15 a. **Section 3340.24, subdivision (c):** Respondent Kim falsely or fraudulently
16 issued the electronic certificate of compliance for the vehicle without performing a bona fide
17 inspection of the emission control devices and systems on the vehicle as required by Health and
18 Saf. Code section 44012.

19 b. **Section 3340.35, subdivision (c):** Respondent Kim issued the electronic
20 certificate of compliance for the vehicle even though the vehicle had not been inspected in
21 accordance with section 3340.42 of that Code.

22 c. **Section 3340.42:** Respondent Kim failed to conduct the required smog
23 test and inspections on the vehicle in accordance with the Bureau's specifications.

24 **FIFTH CAUSE FOR DISCIPLINE**

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

26 19. Respondent Kim has subjected her station license to discipline under
27 Health and Saf. Code section 44072.2, subdivision (d), in that on or about May 21, 2008,
28 regarding the electronic certificate of compliance and the vehicle set forth in Table One, above,

1 she committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
2 the electronic certificate of compliance for the vehicle when, in fact, the vehicle had not been
3 properly tested and inspected, thereby depriving the People of the State of California of the
4 protection afforded by the Motor Vehicle Inspection Program.

5 **SIXTH CAUSE FOR DISCIPLINE**

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

7 20. Respondent De La Garza has subjected his technician license to discipline
8 under Health and Saf. Code section 44072.2, subdivision (a), in that on or about May 21, 2008,
9 regarding the electronic certificate of compliance and the vehicle set forth in Table One, above,
10 he violated sections of that Code, as follows:

11 a. **Section 44012, subdivision (f):** Respondent De La Garza failed to
12 determine that all emission control devices and systems required by law were installed and
13 functioning correctly on the vehicle in accordance with test procedures.

14 b. **Section 44032:** Respondent De La Garza failed to perform tests of the
15 emission control devices and systems on the vehicle in accordance with section 44012 of that
16 Code, in that the vehicle had been clean piped.

17 c. **Section 44059:** Respondent De La Garza entered false information into
18 the Emission Inspection System ("EIS") for the electronic certificate of compliance by certifying
19 that the vehicle had been inspected as required when, in fact, it had not.

20 **SEVENTH CAUSE FOR DISCIPLINE**

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

22 21. Respondent De La Garza has subjected his technician license to discipline
23 under Health and Saf. Code section 44072.2, subdivision (c), in that on or about May 21, 2008,
24 regarding the electronic certificate of compliance and the vehicle set forth in Table One, above,
25 he violated sections of the California Code of Regulations, title 16, as follows:

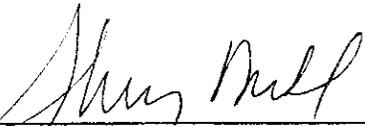
26 a. **Section 3340.24, subdivision (c):** Respondent De La Garza falsely or
27 fraudulently issued an electronic smog certificate of compliance for the vehicle.

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

DATED: 2/23/09



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

03562110LA2008900434
clp; 1/29/09
Hoover Auto Tech Smog.acc.wpd