

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

In the Matter of the Accusation Against:

I DO SMOG, INC.
LAUREN PHAM YANG,
President/Secretary/Treasurer
771 North Mathilda Ave, Unit 1
Sunnyvale, CA 94085

Automotive Repair Dealer Registration No.
ARD 260651
Smog Check, Test Only, Station License No.
TC 260651

Respondent.

Case No. 79/13-40

DECISION

The attached Stipulated Revocation of Registration and License and 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 7/17/13.

DATED: June 26, 2013


DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
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7 *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. 79/13-40

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13 **LAUREN PHAM YANG,**
14 **President/Secretary/Treasurer**
15 **771 North Mathilda Ave, Unit 1**
Sunnyvale, CA 94085

STIPULATED REVOCATION OF
REGISTRATION AND LICENSE AND
ORDER

16 **Automotive Repair Dealer Registration**
17 **No. ARD 260651**
18 **Smog Check, Test Only, Station License No.**
TC 260651

19 Respondent.

20
21 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in this
22 proceeding that the following matters are true:

23 **PARTIES**

24 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
25 brought this action solely in his official capacity and is represented in this matter by Kamala D.
26 Harris, Attorney General of the State of California, by Shana A. Bagley, Deputy Attorney
27 General.

1 Registration and License and Order may not be altered, amended, modified, supplemented, or
2 otherwise changed except by a writing executed by an authorized representative of each of the
3 parties.

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

7 **ORDER**

8 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. 260651, and
9 Smog Check, Test Only, Station License No. TC 260651 issued to Respondent I Do Smog Inc.,
10 Lauren Pham Yang, are revoked.

11 1. The revocation of Respondent's Automotive Repair Dealer Registration and the
12 Smog Check Test Only Station License shall constitute the imposition of discipline against
13 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
14 Respondent's license history with the Bureau of Automotive Repair.

15 2. Respondent shall lose all rights and privileges as an Automotive Repair Dealer and
16 Smog Check Test Only Station License in California as of the effective date of the Director's
17 Decision and Order.

18 3. Respondent shall cause to be delivered to the Bureau her pocket licenses and, if
19 issued, her wall certificates, on or before the effective date of the Decision and Order.

20 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
21 California, the Bureau shall treat it as a new application for licensure. Respondent must comply
22 with all the laws, regulations and procedures for licensure in effect at the time the application or
23 petition is filed, and all of the charges and allegations contained in Accusation No. 79/13-40 shall
24 be deemed to be true, correct, and admitted by Respondent when the Director determines whether
25 to grant or deny the application or petition.

26 5. The total costs of investigation and enforcement of this case are \$10,992.70. These
27 costs are the actual and total costs incurred by the Bureau to investigate and prosecute the case,
28 and Respondent in these proceedings shall be liable for the payment to the Bureau. The Bureau

1 agrees to waive recovery of these costs unless and until Respondent applies for reinstatement for
2 or a new Automotive Repair Dealer and/or Smog Check, Test Only, Station or for any new
3 registration or license with the Bureau, in which case, Respondent shall pay these costs in full at
4 the time when such application is made.

5 **ACCEPTANCE**

6 I have carefully read the Stipulated Revocation of Registration and License and Order. I
7 understand the stipulation and the effect it will have on my Automotive Repair Dealer
8 Registration and Smog Check, Test Only, Station License. I enter into this Stipulated
9 Revocation of Registration and License and Order voluntarily, knowingly, and intelligently, and
10 agree to be bound by the Decision and Order of the Director of Consumer Affairs.

11
12 DATED: 5/20/2013 
13 LAUREN PHAM YANG
14 I DO SMOG INC. President/Secretary/Treasurer
15 Respondent

16 **ENDORSEMENT**

17 The foregoing Stipulated Revocation of Registration and License and Order is hereby
18 respectfully submitted for consideration by the Director of Consumer Affairs.

19 Dated: Respectfully submitted,
20 KAMALA D. HARRIS
21 Attorney General of California
22 DIANN SOKOLOFF
23 Supervising Deputy Attorney General

24 SHANA A. BAGLEY
25 Deputy Attorney General
26 *Attorneys for Complainant*

27 SF2012901211/ Stipulation.rtf

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1 agrees to waive recovery of these costs unless and until Respondent applies for reinstatement for
2 or a new Automotive Repair Dealer and/or Smog Check, Test Only, Station or for any new
3 registration or license with the Bureau, in which case, Respondent shall pay these costs in full at
4 the time when such application is made.

5 **ACCEPTANCE**

6 I have carefully read the Stipulated Revocation of Registration and License and Order. I
7 understand the stipulation and the effect it will have on my Automotive Repair Dealer
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9 Revocation of Registration and License and Order voluntarily, knowingly, and intelligently, and
10 agree to be bound by the Decision and Order of the Director of Consumer Affairs.

11
12 DATED: _____

13 LAUREN PHAM YANG
14 I DO SMOG INC. President/Secretary/Treasurer
Respondent

15 **ENDORSEMENT**

16 The foregoing Stipulated Revocation of Registration and License and Order is hereby
17 respectfully submitted for consideration by the Director of Consumer Affairs.

18 Dated: 31 May 2013

Respectfully submitted,

19 KAMALA D. HARRIS
20 Attorney General of California
21 DIANN SOKOLOFF
Supervising Deputy Attorney General

22
23 SHANA A. BAGLEY
24 Deputy Attorney General
Attorneys for Complainant

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26 SF2012901211/ Stipulation.rtf
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Exhibit A

Accusation No. 79/13-40

1 KAMALA D. HARRIS
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14 **President/Secretary/Treasurer**
15 **771 North Mathilda Ave, Unit 1**
Sunnyvale, CA 94085

ACCUSATION
(Smog Check)

16 **Automotive Repair Dealer Registration**
17 **No. ARD 260651**
18 **Smog Check, Test Only, Station License No.**
TC 260651

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On or about February 1, 2010, the Director of Consumer Affairs ("Director") issued
26 Automotive Repair Dealer Registration number ARD 260651 ("registration") to I Do Smog, Inc.,
27 Lauren Yang President/Secretary/Treasurer, ("Respondent"). Respondent's registration was in
28

1 full force and effect at all times relevant to the charges brought in this Accusation and will expire
2 on January 31, 2014, unless renewed.

3 **Smog Check Test Only Station License**

4 3. On or about February 11, 2010, the Director issued Smog Check, Test Only, Station
5 License number TC 260651 ("station license") to Respondent. Respondent's station license was
6 in full force and effect at all times relevant to the charges brought in this Accusation and will
7 expire on January 31, 2014, unless renewed.

8 **JURISDICTION**

9 4. This Accusation is brought before the Director, under the authority of the following
10 laws. All section references are to the Business and Professions Code (Code) unless otherwise
11 indicated.

12 5. Code section 118, subdivision (b), states:

13 The suspension, expiration, or forfeiture by operation of law of a license issued
14 by a board in the department, or its suspension, forfeiture, or cancellation by order of
15 the board or by order of a court of law, or its surrender without the written consent of
16 the board, shall not, during any period in which it may be renewed, restored, reissued,
17 or reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.

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

22 7. Health and Safety Code section 44002 provides, in part, that the Director has all the
23 powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle
24 Inspection Program.

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26 ///

1 17. California Code of Regulations, title 16, section 3340.42, states, in part:

2 Smog check stations and smog check technicians shall conduct tests and
3 inspections in accordance with the bureau's BAR-97 Emissions Inspection System
4 Specifications referenced in subsections (a) and (b) of Section 3340.17 . . .

5 **COST RECOVERY**

6 18. Code section 125.3 provides, in part, that a Board may request the administrative law
7 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
8 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

9 **UNDERCOVER OPERATION: 1994 CHEVROLET CAPRICE**

10 19. On May 3, 2012, an undercover operator with the Bureau ("operator") drove the
11 Bureau's 1994 Chevrolet Caprice to I Do Smog, Inc., located in Sunnyvale, California, and
12 requested a smog inspection. The vehicle was missing a Secondary Air Injection Reactor System,
13 a component of the emissions system.

14 20. After the inspection was completed, the operator paid \$58.00 to Respondent and
15 Respondent provided the operator with copies of an invoice and a vehicle inspection report. The
16 vehicle inspection report indicated that a technician at Respondent's facility performed the smog
17 inspection. Respondent issued Electronic Smog Certificate of Compliance No. [REDACTED] for
18 the vehicle.

19 21. On May 10, 2012, the Bureau inspected the 1994 Chevrolet Caprice and found that
20 the Secondary Air Injection Reactor System was still missing.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 22. Respondent has subjected its registration to discipline under Code section 9884.7,
24 subdivision (a)(1), in that on or about May 3, 2012, it made statements which it knew or which by
25 exercise of reasonable care it should have known were untrue or misleading when it issued
26 electronic Certificate of Compliance No. [REDACTED] for the 1994 Chevrolet Caprice, certifying
27 that the vehicle complied with applicable laws and regulations when, in fact, the vehicle's
28 Secondary Air Injection Reactor System was missing.

1 a. Section 3340.35, subdivision (c): Respondent issued electronic Certificate of
2 Compliance No. [REDACTED] even though the vehicle was not inspected in accordance with
3 section 3340.42 of that Code.

4 b. Section 3340.41, subdivision (c): Respondent entered false information into the
5 emissions inspection system.

6 c. Section 3340.42: Respondent failed to conduct the required smog tests and
7 inspections on that vehicle in accordance with the Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 26. Respondent subjected its station license to discipline under Health and Safety Code
11 section 44072.2, subdivision (d), in that on or about May 3, 2012, regarding the 1994 Chevrolet
12 Caprice, it committed acts involving dishonesty, fraud or deceit whereby another was injured by
13 issuing electronic Certificate of Compliance No. [REDACTED] to that vehicle without performing a
14 bona fide inspection of the emission control devices and systems on the vehicle, thereby
15 depriving the People of the State of California of the protection afforded by the Motor Vehicle
16 Inspection Program.

17 **PRIOR CITATIONS**

18 27. To determine the degree of discipline, if any, to be imposed on Respondent,
19 Complainant alleges as follows:

20 a. On or about March 14, 2011, the Bureau issued Citation No. C2011-1061 against
21 Respondent for violations of Health and Safety Code section 44012, subdivision (f), (failure to
22 determine that emission control devices and systems are installed and functioning correctly). On
23 or about February 17, 2011, Respondent had issued a certificate of compliance to a Bureau
24 undercover vehicle with a missing PCV valve. A civil penalty of \$1,000.00 was ordered and later
25 reduced to \$500.00. On or about October 12, 2012, Respondent paid the civil penalty.

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28 ///

1 4. Ordering I Do Smog, Inc., Lauren Pham Yang, President/Secretary/Treasurer, to pay
2 the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
3 case, pursuant to Business and Professions Code section 125.3; and

4 5. Taking such other and further action as deemed necessary and proper.
5

6 DATED: June 4 2013


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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