

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

In the Matter of the STAR Certification
Invalidation Appeal Against:

**GOLDEN STATE AUTO SPA, INC.,
ALBERTO MARQUEZ-MEMBER
DBA SMOG IT, LLC**
22504 Biak Court
Torrance, CA 90505

STAR Certification of Smog Check Test
Only Station License No. TC 262195

Respondent.

Case No. 2014-0028 and
2014-0029

OAH No. 2014100497

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 October 30, 2015.

DATED: October 6, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

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11 In the Matter of the STAR Certification
Invalidation Appeal Against:

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ALBERTO MARQUEZ-MEMBER
14 **DBA SMOG IT, LLC**
22504 Biak Court
15 Torrance, CA 90505

16 **STAR Certification of Smog Check Test**
Only Station License No. TC 262195

17 Respondent.

Case No. 2014-0028 and 2014-0029

OAH No. 2014100497

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
21 Automotive Repair, the parties hereby agree to the following Stipulated Settlement and
22 Disciplinary Order which will be submitted to the Director for approval and adoption as the final
23 disposition of the STAR Certification Invalidation Appeal.

24 **PARTIES**

25 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
26 brought this action solely in his official capacity and is represented in this matter by Kamala D.
27 Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney General.

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1 2. Respondent Golden State Auto Spa, Inc., Alberto Marquez dba Smog It, LLC,
2 ("Respondent Smog It") is represented in this proceeding by attorney Michael B. Levin, Esq.,
3 whose address is: 3727 Camino del Rio South, Suite 200, San Diego, CA 92108.

4 3. On or about June 23, 2010, the Bureau of Automotive Repair ("Bureau") issued
5 Smog Check Test Only Station License No. TC 262195 to Respondent Smog It. The Smog
6 Check Test Only Station License will expire on May 31, 2016, unless renewed. On or about
7 January 1, 2013, the Smog Check Test Only Station License was certified as a STAR station.

8 **JURISDICTION**

9 4. STAR Certification Invalidation No. 2014-0028 and 2014-0029 were filed before the
10 Director of Consumer Affairs ("Director"), for the Bureau, and is currently pending against
11 Respondent Smog It. The STAR Certification Invalidation and all other statutorily required
12 documents were properly served on Respondent Smog It on June 17, 2014. Respondent Smog It
13 timely contested the STAR Certification Invalidation.

14 5. A copy of STAR Certification Invalidation No. 2014-0028 is attached as exhibit A
15 and incorporated herein by reference.

16 6. A copy of STAR Certification Invalidation No. 2014-0029 is attached as exhibit B
17 and incorporated herein by reference.

18 **ADVISEMENT AND WAIVERS**

19 7. Respondent Smog It has carefully read, fully discussed with counsel, and understands
20 the charges and allegations in STAR Certification Invalidation Appeal Nos. 2014-0028 and 2014-
21 0029. Respondent Smog It has also carefully read, fully discussed with counsel, and understands
22 the effects of this Stipulated Settlement and Disciplinary Order.

23 8. Respondent Smog It is fully aware of its legal rights in this matter, including the right
24 to a hearing on the charges and allegations in the STAR Certification Invalidation; the right to be
25 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
26 against them; the right to present evidence and to testify on its own behalf; the right to the
27 issuance of subpoenas to compel the attendance of witnesses and the production of documents;

1 the right to reconsideration and court review of an adverse decision; and all other rights accorded
2 by the California Administrative Procedure Act and other applicable laws.

3 9. Respondent Smog It voluntarily, knowingly, and intelligently waives and gives up
4 each and every right set forth above.

5 **CULPABILITY**

6 10. Respondent Smog It admits the truth of each and every charge and allegation in
7 STAR Certification Invalidation Nos. 2014-0028 and 2014-0029.

8 11. Respondent Smog It agrees that its STAR Certification of Smog Check Test Only
9 Station License No. TC 262195 is subject to discipline and it agrees to be bound by the Director
10 of Consumer Affairs imposition of discipline as set forth in the Disciplinary Order below.

11 **RESERVATION**

12 12. The admissions made by Respondent Smog It herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Bureau of Automotive Repair, or other
14 professional licensing agency is involved. The admissions made by Respondent Smog It shall not
15 be admissible in any other criminal or civil proceeding.

16 **CONTINGENCY**

17 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or
18 the Director's designee. Respondent Smog It understands and agrees that counsel for
19 Complainant and the staff of the Bureau of Automotive Repair may communicate directly with
20 the Director and staff of the Department of Consumer Affairs regarding this stipulation and
21 settlement, without notice to or participation by Respondent Smog It. By signing the stipulation,
22 Respondent Smog It understands and agrees that it may not withdraw its agreement or seek to
23 rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
24 fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and
25 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
26 in any legal action between the parties, and the Director shall not be disqualified from further
27 action by having considered this matter.

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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

ORDER

IT IS HEREBY ORDERED that STAR Certification of Smog Check Test Only Station License No. 262195 issued to Respondent Smog It is invalidated under the following terms and conditions;

1. **Invalidation.** Respondent Smog It's STAR certification shall be temporarily invalidated for a period of thirty (30) consecutive days beginning on the effective date of the Decision and Order. During the period of invalidation, Respondent Smog It shall cease advertising as a STAR station and shall cover or remove all STAR signage. During the period of invalidation, Respondent Smog It shall not perform any repairs under the Consumer Assistance Program.

2. **Automatic Reinstatement.** Upon successful completion of the 30 day invalidation, Respondent Smog It's STAR Certification shall be fully restored without reapplication for STAR certification.

3. **Violation of Decision and Order.** If Respondent Smog It violates any term and condition of this Decision and Order, then the violation shall constitute a cause to discipline Respondent Smog It's Smog Check Test Only Station License, Automotive Repair Dealer

1 Registration and any other Bureau issued license and or registration.

2 ACCEPTANCE

3 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
4 stipulation and the effect it will have on the STAR Certification of my Smog Check Test Only
5 Station. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
6 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
7 Affairs.

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9 DATED: 7/17/2015

Alberto Marquez
GOLDEN STATE AUTO SPA, INC., ALBERTO
MARQUEZ-MEMBER DBA SMOG IT, LLC,
Respondent

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13 DATED: 7/17/2015

Alberto Marquez
GOLDEN STATE AUTO SPA, INC., ALBERTO
MARQUEZ-MEMBER DBA SMOG IT, LLC
Respondent

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17 I have read and fully discussed with Respondent Smog It, the terms and conditions
18 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
19 its form and content.

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21 DATED: 7/20/15

Michael B. Levin
Michael B. Levin, Esq.
Attorney for Respondent

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ENDORSEMENT

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

Dated: July 20 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

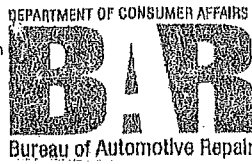


MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

STAR Certification Invalidation No. 2014-0028



LICEN G UNIT

10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (855) 735.0462 F (888) 421-7798 | www.bar.ca.gov



June 17, 2014

Invalidation #2014-0028

Alberto Marquez and Golden State Auto Spa, INC.
Smog It, LLC.
22504 Biak Court
Torrance, CA 90505

ARD/TC 262195

RE: Notice of STAR Certification Invalidation—Station Citation(s)

Alberto Marquez and Golden State Auto Spa, INC.:

The Bureau of Automotive Repair (Bureau) is hereby notifying you that on July 1, 2014, the Bureau will invalidate your STAR certification, pursuant to the California Code of Regulations (CCR) Section 3392.5.1 for the following finding(s):

- Your station, Smog It, LLC. was issued citation number C2013-366 on November 30, 2012.
- The citation was appealed, upheld, and became effective April 9, 2014.
- The California Code of Regulations (CCR) Section 3392.5.1 (a) states, "It shall be cause for the bureau to invalidate the certification of a STAR station if any of the following occur:"
 - CCR Section 3392.5.1. (a) (1) states, "The STAR station, manager, or any licensed technician employed by the station receives an order of suspension, a probationary order, or a citation that is final and non-appealable..."

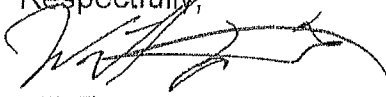
Based on the information above, the Bureau is invalidating your STAR certification, effective July 1, 2014. After invalidation of STAR certification, your station may continue to perform smog check tests or repair services, pursuant to the type of license held by your station (Test-Only or Test and Repair).

If you choose to appeal this action, fill-out the enclosed Request to Appeal STAR Invalidation form. This form must be received by the Bureau Headquarters no later than July 1, 2014. Send your appeal to:

Bureau of Automotive Repair Licensing Unit
STAR Appeals
10949 North Mather Boulevard
Rancho Cordova, CA 95670

Should you choose not to appeal to this notification, for any reason, your STAR Certification will be invalidated without further notice. Your STAR Appeal Form must be received no later than July 1, 2014 to be evaluated.

Respectfully,



Bill Thomas
Program Manager I
Enforcement Planning and Oversight
Bureau of Automotive Repair

cc: Licensing Unit
1506 S. La Cienega Blvd, Los Angeles, CA 90035

Attachment: STAR Appeal Form

Exhibit B

STAR Certification Invalidation No. 2014-0029

**LICENSING UNIT**

10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (855) 735.0462 F (888) 421-7798 | www.bar.ca.gov



June 17, 2014

Invalidation #2014-0029

Alberto Marquez and Golden State Auto Spa, INC.
Smog It, LLC.
22504 Biak Court
Torrance, CA 90505

ARD/TC 262195

RE: Notice of STAR Certification Invalidation—Technician Citation(s)

Alberto Marquez and Golden State Auto Spa, INC.:

The Bureau of Automotive Repair (Bureau) is hereby notifying you that July 1, 2014, the Bureau will invalidate your STAR certification, pursuant to the California Code of Regulations (CCR) Section 3392.5.1 for the following finding(s):

- A technician in your employ, Alberto Marquez #147467, was issued citation number M2013-367 on November 30, 2012.
- The citation was appealed, upheld, and became effective April 9, 2014.
- The California Code of Regulations (CCR) Section 3392.5.1 (a) states, "It shall be cause for the bureau to invalidate the certification of a STAR station if any of the following occur:"
 - CCR Section 3392.5.1. (a) (1) states, "The STAR station, manager, or any licensed technician employed by the station receives an order of invalidation, a probationary order, or a citation that is final and non-appealable..."


Based on the information above, the Bureau is invalidating your STAR certification, effective July 1, 2014. After invalidation of STAR certification, your station may continue to perform smog check tests or repair services, pursuant to the type of license held by your station (Test-Only or Test and Repair).

If you choose to appeal this action, fill-out the enclosed Request to Appeal STAR Invalidation form. This form must be received by the Bureau Headquarters no later than July 1, 2014. Send your appeal to:

**Bureau of Automotive Repair Licensing Unit
STAR Appeals
10949 North Mather Boulevard
Rancho Cordova, CA 95670**

Should you choose not to appeal to this notification, for any reason, your STAR Certification will be invalidated without further notice. Your STAR Appeal Form must be received no later than July 1, 2014 to be evaluated.

Respectfully,


Bill Thomas, Program Manager
Enforcement Planning and Oversight
Bureau of Automotive Repair

cc: Licensing Unit
1506 S. La Cienega Blvd, Los Angeles, CA 90035

Attachment: STAR Appeal Form