

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

In the Matter of the Accusation Against:

**JAVIER REGALADO, OWNER,
DOING BUSINESS AS JR SMOG CHECK
ONLY**

P.O. Box 52559
Riverside, CA 92517

3720 Rubidoux Boulevard, #C
Riverside, CA 92509

Automotive Repair Dealer Registration No. ARD
267929

Smog Check-Test Only Station License No. TC
267929

**JAVIER REGALADO, OWNER,
DOING BUSINESS AS JR AUTO TECH
AND TRANS FLEET SERVICE**

323 W. La Cadena Dr.
Riverside, CA 92501

Automotive Repair Dealer Registration No.
ARD 271569

Respondents.

Case No. 79/15-38

OAH No. 2014100527

DECISION

The attached Stipulated Settlement and Disciplinary Order a Only as to Automotive Repair Dealer Registration No. ARD 271569 and No. ARD 267929 and Smog Check-Test Only Station License No. TC 267929 is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent Automotive Repair Dealer Registration No. ARD 271569, Automotive Repair Dealer Registration No. ARD 267929 and Smog Check-Test Only Station License No. TC 267929.

This Decision shall become effective

July 17, 2015

DATED:

June 23, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
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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:
13 **JAVIER REGALADO, OWNER,**
14 **DOING BUSINESS AS JR SMOG CHECK**
15 **ONLY**
16 **P.O. Box 52559**
17 **Riverside, CA 92517**
18 **3720 Rubidoux Boulevard, #C**
19 **Riverside, CA 92509**
20 **Automotive Repair Dealer Registration No.**
ARD 267929
Smog Check-Test Only Station License No.
TC 267929
21 **JAVIER REGALADO, OWNER,**
22 **DOING BUSINESS AS JR AUTO TECH**
23 **AND TRANS FLEET SERVICE**
24 **323 W. La Cadena Dr.**
Riverside, CA 92501
25 **Automotive Repair Dealer Registration No.**
ARD 271569
26 Respondents.

Case No. 79/15-38

OAH No. 2014100527

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER ONLY AS TO
AUTOMOTIVE REPAIR DEALER
REGISTRATION NO. ARD 271569 AND
NO. ARD 267929 AND SMOG CHECK-
TEST ONLY STATION LICENSE NO.
TC 267929**

1 In the interest of a prompt and speedy settlement of this matter, consistent with the public
2 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
3 Automotive Repair the parties hereby agree to the following Stipulated Settlement and
4 Disciplinary Order which will be submitted to the Director for the Director's approval and
5 adoption as the final disposition of the First Amended Accusation solely with respect to Javier
6 Regalado, Owner, doing business as JR Smog Check Only and JR Auto Tech and Trans Fleet
7 Service (collectively Respondent). It does not pertain as the final disposition with respect to
8 Edgar Chavez.

9 PARTIES

10 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
11 brought this action solely in his official capacity and is represented in this matter by Kamala D.
12 Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney
13 General.

14 2. Respondent is represented in this proceeding by attorney Luis E. Lopez, Esq., whose
15 address is: 4076 Brockton Avenue, Riverside, CA 92501.

16 3. On or about February 10, 2012, the Bureau of Automotive Repair issued Automotive
17 Repair Dealer Registration Number ARD 267929 to Respondent. The Automotive Repair Dealer
18 Registration was in full force and effect at all times relevant to the charges brought in First
19 Amended Accusation No. 79/15-38, expired on February 28, 2015, and has not been renewed.

20 4. On or about March 5, 2012, the Bureau of Automotive Repair issued Smog Check-
21 Test Only Station License Number TC 267929 to Respondent. The Station License was in full
22 force and effect at all times relevant to the charges brought in First Amended Accusation No.
23 79/15-38, expired on February 28, 2015, and has not been renewed.

24 1. On or about January 29, 2013, the Bureau of Automotive Repair issued Automotive
25 Repair Dealer Registration Number ARD 271569 to Respondent. The Automotive Repair Dealer
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on January 31, 2016, unless renewed.

28 ///

1 IT IS FURTHER ORDERED THAT Automotive Repair Dealer Registration No. ARD
2 271569 issued to Javier Regalado, Owner, doing business as JR Auto Tech and Trans Fleet
3 Service, is revoked. However, the revocation for Automotive Repair Dealer Registration No.
4 ARD 271569 is stayed and it is placed on probation for three (3) years on the following terms and
5 conditions.

6 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
7 automotive inspections, estimates and repairs.

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

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

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

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

22 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
23 Respondent has failed to comply with the terms and conditions of probation, the Department may,
24 after giving notice and opportunity to be heard, temporarily or permanently revoke the
25 registration.

26 7. **Cost Recovery.** Respondent shall pay the Bureau cost recovery for costs in the
27 amount of \$12,035.48. Payments shall be made by certified funds (money order or cashier's
28 check only) in 24 consecutive, equal monthly installments with the final payment due 12 months

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

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Luis E. Lopez, Esq. I understand the stipulation and the effect it
9 will have on my Automotive Repair Dealer Registrations and Smog Check-Test Only Station
10 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
11 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
12 Affairs.

13
14 DATED: 3/27/15 
15 JAVIER REGALADO, OWNER AND
16 AUTHORIZED AGENT OF JR SMOG CHECK
17 ONLY AND JR AUTO TECH AND TRANS FLEET
18 SERVICE
19 Respondent

20 I have read and fully discussed with Respondent the terms and conditions and other matters
21 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
22 content.

23 DATED: 3/27/15 
24 LUIS E. LOPEZ, ESQ.
25 Attorney for Respondent

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27 ///
28 ///

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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: 4/2/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

Adrian R. Contreras
ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 79/15-38

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FOR THE BUREAU OF AUTOMOTIVE REPAIR
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267929

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21 **JAVIER REGALADO, OWNER,**
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TRANS FLEET SERVICE
23 **323 W. La Cadena Dr.**
Riverside, CA 92501

24 **Automotive Repair Dealer Registration No. ARD**
25 **271569**

26 Respondents.

27
28 ///

Case No. 79/15-38

OAH No. 2014100527

FIRST AMENDED
ACCUSATION

1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
4 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

5 2. On or about February 10, 2012, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 267929 (the Registration) to Javier Regalado, Owner,
7 doing business as JR Smog Check Only (Respondent Regalado). The Automotive Repair Dealer
8 Registration was in full force and effect at all times relevant to the charges brought herein and
9 will expire on February 28, 2015, unless renewed.

10 3. On or about March 5, 2012, the Bureau of Automotive Repair issued Smog Check-
11 Test Only Station License Number TC 267929 (the Station License) to Respondent Regalado.
12 The Station License was in full force and effect at all times relevant to the charges brought herein
13 and will expire on February 28, 2015, unless renewed.

14 4. On or about January 29, 2013, the Bureau of Automotive Repair issued Automotive
15 Repair Dealer Registration Number ARD 271569 (the Affiliated Registration) to Respondent
16 Regalado, doing business as JR Auto Tech and Trans Fleet Service. The Affiliated Registration
17 was in full force and effect at all times relevant to the charges brought herein and will expire on
18 January 31, 2016, unless renewed.

19 **JURISDICTION**

20 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
21 Bureau of Automotive Repair, under the authority of the following laws.

22 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
23 surrender, cancellation of a license shall not deprive the Director of jurisdiction to proceed with a
24 disciplinary action during the period within which the license may be renewed, restored, reissued
25 or reinstated.

26 7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
27 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
28

1 proceeding against an automotive repair dealer or to render a decision invalidating a registration
2 temporarily or permanently.

3 8. Section 9884.20 of the Code states:

4 "All accusations against automotive repair dealers shall be filed within three years after the
5 performance of the act or omission alleged as the ground for disciplinary action, except that with
6 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action,
7 the accusation may be filed within two years after the discovery, by the bureau, of the alleged
8 facts constituting the fraud or misrepresentation."

9 9. Section 9884.22 of the Code states:

10 "(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny
11 at any time any registration required by this article on any of the grounds for disciplinary action
12 provided in this article. The proceedings under this article shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code, and the director shall have all the powers granted therein.

15 "..."

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

19 11. Section 44072 of the Health and Safety Code states:

20 "Any license issued under this chapter and the regulations adopted pursuant to it may be
21 suspended or revoked by the director. The director may refuse to issue a license to any applicant
22 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted
23 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
24 of the Government Code, and the director shall have all the powers granted therein."

25 12. Section 44072.4 of the Health and Safety Code states:

26 "The director may take disciplinary action against any licensee after a hearing as provided
27 in this article by any of the following:

28 "(a) Imposing probation upon terms and conditions to be set forth by the director.

1 17. Section 23.7 of the Code states:

2 "Unless otherwise expressly provided, 'license' means license, certificate, registration, or
3 other means to engage in a business or profession regulated by this code or referred to in Section
4 1000 or 3600."

5 18. Section 9884.7 of the Code states:

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

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

14 "...

15 "(4) Any other conduct that constitutes fraud.

16 "...

17 "(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
18 probation the registration for all places of business operated in this state by an automotive repair
19 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
20 and willful violations of this chapter, or regulations adopted pursuant to it."

21 19. Section 44072.2 of the Health and Safety Code states:

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

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

28 "..."

FIRST UNDERCOVER RUN

1
2 23. At all times alleged in this Accusation, Edgar Chavez (Chavez) and Jessie were acting
3 in the course and within the scope of a technician, employee, partner, officer, or member of
4 Respondent Regalado.

5 24. On January 9, 2014, at approximately 1045 hours, a Bureau representative gave an
6 undercover operator (the Operator) a Bureau-documented 2001 Honda. In its documented
7 condition, the 2001 Honda had the following parts removed: exhaust manifold, catalytic
8 converter, air intake cleaner assembly, Positive Crankcase Ventilation hose, camshaft gears, and
9 fuel pressure regulator. It had aftermarket exhaust headers and pipes without a catalytic
10 converter, an aftermarket air intake system, adjustable camshaft gears, an adjustable fuel pressure
11 regulator, and a breather assembly in place of the Positive Crankcase Ventilation hose. This
12 condition rendered the vehicle incapable of passing a proper smog inspection because of Gross
13 Polluter tailpipe emissions, missing and modified parts, and an illuminated system malfunction
14 light with a P0420 Catalyst System Efficiency code. The Operator was instructed to take the
15 vehicle to Respondent Regalado's smog station, JR Smog Check Only, for a smog inspection.

16 25. When the Operator arrived at JR Smog Check Only, he spoke with one of Respondent
17 Regalado's employees, Jessie. The Operator told Jessie that he had a vehicle that needed to pass
18 its smog inspection. After quoting the Operator \$180.00, Jessie told the Operator that the
19 station's emission analyzer wasn't working and asked him to return another day. The Operator
20 left the smog station.

21 26. On January 14, 2014, at 1019 hours, the Operator returned to Respondent Regalado's
22 smog station, JR Smog Check Only, for the inspection. Three males were at the station, including
23 Jessie and Edgar Chavez. Jessie asked the Operator for the keys and drove the Honda into the
24 testing bay, and opened the hood.

25 27. Chavez clean-piped the Bureau-documented Honda using the exhaust sample from a
26 Mercedes Benz ML430, CA License Number 6WGS663.

27 28. After the inspection, Jessie removed the probes from the exhaust of both vehicles.
28 Chavez got out of the Honda, went to the analyzer, and typed on the keyboard. Jessie gave the

1 Operator a work order to fill out. Jessie gave the Operator a copy of the invoice and the Vehicle
2 Inspection Report showing that the vehicle passed and that a certificate of compliance had been
3 issued. The Operator paid Jessie \$180.00, left with the vehicle, and returned custody of it to a
4 Bureau representative.

5 29. Later, a Bureau representative re-inspected the Honda. He confirmed that the
6 condition of the Honda had not changed since he released custody of it previously for the
7 undercover operation and that it would still fail a proper smog inspection in its condition.

8 SECOND UNDERCOVER RUN

9 30. On February 25, 2014, a Bureau representative gave an Operator a Bureau-
10 documented 2002 Ford. In its documented condition, the vehicle had its existing catalytic
11 converter and H-pipe removed. A Bureau representative installed an illegal, off-road X-pipe that
12 had no catalytic converters. The vehicle's existing air filter housing and inlet tube had been
13 removed; they were replaced with a non-approved cold air inlet system that did not have an
14 Executive Order sticker and was illegal. The Bureau representative also installed an illegal open
15 breather and a modification to prevent the malfunction indicator light from illuminating. In its
16 documented condition, the vehicle would fail a proper smog inspection because of Gross Polluter
17 tailpipe emissions and missing and modified components. The Operator was instructed to take
18 the vehicle to Respondent Regalado's smog station, JR Smog Check Only, ask them to perform a
19 smog inspection on that vehicle, and tell them that it needed to pass.

20 31. At 1130 hours on February 25, 2014, the Operator arrived at Respondent Regalado's
21 smog station, JR Smog Check Only. Jessie and Chavez were there. The Operator told Jessie that
22 he needed to have the Ford pass its smog inspection. Jessie quoted him \$120.00 for the
23 inspection.

24 32. Jessie had the Operator fill out a work order. The Operator paid Jessie \$120.00. The
25 Operator received a copy of the invoice and Vehicle Inspection Report showing that a certificate
26 of compliance was issued. The Operator left with the Bureau-documented 2002 Ford and
27 returned custody of it to a Bureau representative.

28

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 41. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 23-40.

5 42. Respondent Regalado's Registration is subject to disciplinary action under Code
6 section 9884.7, subdivision (a)(4), and Respondent Regalado's Station License is subject to
7 disciplinary action under Health and Safety Code sections 44072.10, subdivision (c) and 44072.2,
8 subdivision (d), in that Respondent Regalado committed dishonest, fraudulent, or deceitful acts
9 whereby another is injured by issuing smog inspection certificates for the vehicles described in
10 paragraphs 23-40 without performing bona fide inspections of the emission control devices and
11 systems on them, thereby depriving the People of the State of California of the protection afforded
12 by the Motor Vehicle Inspection Program.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Clean Piping)**

15 43. Complainant re-alleges and incorporates by reference the allegations set forth above
16 in paragraphs 23-42.

17 44. Respondent Regalado's Station license is subject to disciplinary action for clean
18 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in California Code
19 of Regulations, title 16, section 3340.1, in that Respondent Regalado used a substitute exhaust
20 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
21 cause the Emissions Inspection System to issue certificates of compliance for the inspections
22 described in paragraphs 23-42.

23 **OTHER MATTERS**

24 45. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or
25 place on probation the registration for all places of business operated in this State by Respondent
26 Regalado upon a finding that Respondent Regalado has, or is, engaged in a course of repeated and
27 willful violations of the laws and regulations pertaining to an automotive repair dealer.

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