

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

In the Matter of the Accusation Against:

**SG SMOG CHECK CENTER,
SUDARSHAN KUMAR GOSWANI,
OWNER**

205 Couch Street, Suite A
Vallejo, CA 94590

Mailing Address:

2310 Burgundy Way
Fairfield, CA 94533

Automotive Repair Dealer Registration No.

ARD 279298

Smog Check, Test Only, Station License No.

TC 279298

CHERYL BASCOM POBLETE

515 Cordelia St., Apt. 3

Suisun City, CA 94585

Smog Check Inspector License No. EO 636124

Respondents.

Case No. 79/15-17692


OAH No. 2017101252

DECISION

The attached Stipulation for Settlement and Withdrawal of Accusation and Issuance of Citations is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective May 4, 2018.

DATED: 3/22/18


GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
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Deputy Attorney General
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Oakland, CA 94612-0550
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7 *Attorneys for Complainant*

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

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24 Respondents.

Case No. 79/15-17692

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**STIPULATED SETTLEMENT AND
WITHDRAWAL OF ACCUSATION AND
ISSUANCE OF CITATIONS**

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

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Nicholas Tsukamaki, Deputy
7 Attorney General.

8 2. Respondents SG Smog Check Center, Sudarshan Kumar Goswani, Owner
9 (Respondent SG Smog) and Cheryl Bascom Poblete (Respondent Poblete) are represented in this
10 proceeding by attorney William Ferreira, whose address is: 555 California Street, Suite 4925, San
11 Francisco, CA 94104.

12 3. On or about February 23, 2015, the Bureau issued Automotive Repair Dealer
13 Registration Number ARD 279298 to Respondent SG Smog. The Automotive Repair Dealer
14 Registration was in full force and effect at all times relevant to the charges brought in this
15 Accusation and will expire on February 28, 2018, unless renewed.

16 4. On or about March 20, 2015, the Bureau issued Smog Check Test Only Station
17 License Number TC 279298 to Respondent SG Smog. The Smog Check Test Only Station
18 License was in full force and effect at all times relevant to the charges brought in this Accusation
19 and will expire on February 28, 2018, unless renewed.

20 5. On or about October 11, 2013, the Bureau issued Smog Check Inspector License
21 Number EO 636124 to Respondent Poblete. The Smog Check Inspector License was in full force
22 and effect at all times relevant to the charges brought in this Accusation and will expire on
23 February 29, 2020, unless renewed.

24 JURISDICTION

25 6. Accusation No. 79/15-17692 was filed before the Director of Consumer Affairs
26 (Director) for the Bureau and is currently pending against Respondents. The Accusation and all
27 other statutorily required documents were properly served on Respondents on July 28, 2017.
28 Respondents timely filed their Notice of Defense contesting the Accusation. A copy of

1 Accusation No. 79/15-17692 is attached as exhibit A and incorporated in this Stipulated
2 Settlement by reference.

3 ADVISEMENT AND WAIVERS

4 7. Respondents have carefully read, fully discussed with counsel, and understand the
5 charges and allegations in Accusation No. 79/15-17692. Respondents have also carefully read,
6 fully discussed with counsel, and understand the effects of this Stipulated Settlement.

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

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

15 CONTINGENCY

16 10. By signing the stipulation, the parties understand and agree that they may not
17 withdraw their agreement or seek to rescind the stipulation.

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

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

27 13. The parties agree on the following resolution of the matter.

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RESOLUTION

14. Complainant shall withdraw Accusation No. 79/15-17692 and, in place of the Accusation, issue a citation to SG Smog Check Center, Sudarshan Kumar Goswani, Owner (Respondent SG Smog) under Business and Professions Code section 125.9 on the following terms.

- (A) Respondent SG Smog shall be cited for violating Health and Safety Code section 44012 (failure to perform a smog check inspection in accordance with the procedures prescribed by the Department);
- (B) The citation shall charge that the violation occurred on or about January 6, 2016, in Vallejo and involved the improper issuance of a smog check certificate of compliance to a Bureau undercover vehicle;
- (C) The citation shall carry an administrative fine of \$1,000.00 due 30 days after the citation's issuance;
- (D) Payment of the fine shall not constitute an admission of the violations charged; and
- (E) Respondent SG Smog shall not appeal or contest the citation.

15. Complainant shall also issue a citation to Cheryl Bascom Poblete (Respondent Poblete) under Business and Professions Code section 125.9 on the following terms.

- (A) Respondent Poblete shall be cited for violating Health and Safety Code section 44032 (failure to perform tests of emission control devices and systems in accordance with Health and Safety Code section 44012);
- (B) The citation shall charge that the violation occurred on or about January 6, 2016, in Vallejo and involved the improper issuance of a smog check certificate of compliance to a Bureau undercover vehicle;
- (C) The citation shall contain an Order of Abatement ordering Respondent Poblete to cease and desist from violating Health & Safety Code section 44032.
- (D) Respondent Poblete shall not appeal or contest the citation.

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ACCEPTANCE

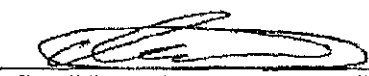
I have carefully read and understand the above Stipulated Settlement and have fully discussed it with my attorney, William Ferreira. I enter into this Stipulated Settlement voluntarily, knowingly, and intelligently, and agree to be bound by its terms.

DATED: 2/14/18


SUDARSHAN KUMAR GOSWANI for
SG SMOG CHECK CENTER
Respondent

I have carefully read and understand the above Stipulated Settlement and have fully discussed it with my attorney, William Ferreira. I enter into this Stipulated Settlement voluntarily, knowingly, and intelligently, and agree to be bound by its terms.

DATED: 2/14/18


CHERYL BASCOM POBLETE
Respondent

I have read and fully discussed with Respondents SG Smog Check Center, Sudarshan Kumar Goswani, Owner and Cheryl Bascom Poblete the terms and conditions and other matters contained in the above Stipulated Settlement. I approve its form and content.

DATED: 2-14-18


WILLIAM FERREIRA
Attorney for Respondent

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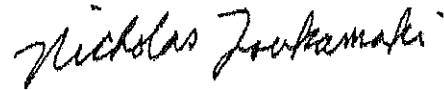
1 ACCEPTANCE ON BEHALF OF COMPLAINANT

2 I have discussed the terms and conditions of the above Stipulated Settlement with
3 Complainant or Complainant's designee and agree to the stipulation on Complainant's behalf.

4 Dated: March 5, 2018

Respectfully submitted,

5 XAVIER BECERRA
6 Attorney General of California
7 DIANN SOKOLOFF
8 Supervising Deputy Attorney General

9 

10 NICHOLAS TSUKAMAKI
11 Deputy Attorney General
12 *Attorneys for Complainant*

13 SF2017901091