

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

In the Matter of the Accusation Against:

MORTEZA GHAREBAGHI-PRESIDENT/SECRETARY/TREASURER MOSTAFA GHAREBAGHI, INC.

dba 5 POINTS SMOG

1369 Saviers Road

Oxnard, CA 93033

Automotive Repair Dealer Registration No. ARD 285810

Smog Check Test Only Station License No. TC 285810

Respondent.

Case No. 79/21-16673

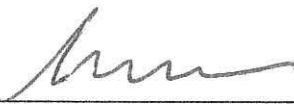
OAH No. 2022080498

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 on MAR 23 2023.

DATED: Feb. 8, 2023


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

1 ROB BONTA
Attorney General of California
2 KIM KASRELIOVICH
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 79/21-16673

14 **MORTEZA GHAREBAGHI –**
15 **PRESIDENT/SECRETARY/TREASURER**
16 **MOSTAFA GHAREBAGHI, INC. dba 5**
17 **POINTS SMOG**

OAH No. 2022080498

18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

20 **1369 Saviers Road**
21 **Oxnard, CA 93033**

22 **Automotive Repair Dealer Registration No.**
23 **ARD 285810**
24 **Smog Check, Test Only, Station License No.**
25 **TC 285810**

26 Respondent.
27
28

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

31 **PARTIES**

32 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
33 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
34

1 Rob Bonta, Attorney General of the State of California, by Artin DerOhanian, Deputy Attorney
2 General.

3 2. Respondent Morteza Gharebaghi – President/Secretary/Treasurer of Mostafa
4 Gharebaghi, Inc. dba 5 Points Smog (Respondent) is represented in this proceeding by attorney
5 Michael B. Levin, Esq., whose address is: 3727 Camino del Rio South, Suite 200
6 San Diego, CA 92108

7 3. On or about January 19, 2017, the Bureau issued Automotive Repair Dealer
8 Registration No. ARD 285810 to Respondent. The Automotive Repair Dealer Registration was
9 in full force and effect at all times relevant to the charges brought in Accusation No. 79/21-
10 16673, and will expire on January 31, 2023, unless renewed.

11 4. On or about January 27, 2017, the Bureau issued Smog Check, Test Only, Station
12 License No. TC 285810 to Respondent. The Smog Check, Test Only, Station License was in full
13 force and effect at all times relevant to the charges brought in Accusation No. 79/21-16673, and
14 will expire on January 31, 2023, unless renewed.

15 **JURISDICTION**

16 5. Accusation No. 79/21-16673 was filed before the Director of the Department of
17 Consumer Affairs (Director), and is currently pending against Respondent. The Accusation and
18 all other statutorily required documents were properly served on Respondent on July 13, 2022.
19 Respondent timely filed its Notice of Defense contesting the Accusation.

20 6. A copy of Accusation No. 79/21-16673 is attached as exhibit A and incorporated
21 herein by reference.

22 **ADVISEMENT AND WAIVERS**

23 7. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 79/21-16673. Respondent has also carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 8. Respondent is fully aware of its legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 **CULPABILITY**

8 10. Respondent admits the truth of each and every charge and allegation in Accusation
9 No. 79/21-16673.

10 11. Respondent agrees that its Automotive Repair Dealer Registration is subject to
11 discipline and they agree to be bound by the Director's probationary terms as set forth in the
12 Disciplinary Order below.

13 **CONTINGENCY**

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

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

27 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 285810
10 and Smog Check, Test Only, Station License No. TC 285810 issued to Respondent Morteza
11 Gharebaghi – President/Secretary/Treasurer Mostafa Gharebaghi, Inc. dba 5 Points Smog are
12 revoked. However, the revocation is stayed and Respondent is placed on probation for three (3)
13 years on the following terms and conditions:

14 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all
15 federal and state statutes, regulations and rules governing all BAR registrations and licenses held
16 by Respondent.

17 2. **Posting of Sign.** (Applicable only when actual suspension of a registration or station
18 license is ordered): During the period of suspension, Respondent shall prominently post a sign or
19 signs, provided by BAR, indicating the beginning and ending dates of the suspension and
20 indicating the reason for the suspension. The sign or signs shall be conspicuously displayed in a
21 location or locations open to and frequented by customers. The location(s) of the sign(s) shall be
22 approved by BAR and shall remain posted during the entire period of actual suspension.

23 3. **Quarterly Reporting.** During the period of probation, Respondent shall report either
24 by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no
25 more frequently than once each calendar quarter, on the methods used and success achieved in
26 maintaining compliance with the terms and conditions of probation.

27 4. **Report Financial Interests.** Respondent shall, within 30 days of the effective date
28 of the decision and within 30 days from the date of any request by BAR during the period of

1 probation, report any financial interest which any Respondent or any partners, officers, or owners
2 of any Respondent facility may have in any other business required to be registered pursuant to
3 Section 9884.6 of the Business and Professions Code.

4 **5. Access to Examine Vehicles and Records.** Respondent shall provide BAR
5 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
6 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
7 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

8 **6. Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of
9 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
10 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
11 and return, and of the dates of cessation and resumption of business in California. All provisions
12 of probation other than cost reimbursement requirements, restitution requirements, training
13 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of
14 time of 30 days or more in which Respondent is not residing or engaging in business within the
15 jurisdiction of California. All provisions of probation shall recommence on the effective date of
16 resumption of business in California. Any period of time of 30 days or more in which Respondent
17 is not residing or engaging in business within the jurisdiction of California shall not apply to the
18 reduction of this probationary period or to any period of actual suspension not previously
19 completed. Tolling is not available if business or work relevant to the probationary license or
20 registration is conducted or performed during the tolling period.

21 **7. Violation of Probation.** If Respondent violates or fails to comply with the terms and
22 conditions of probation in any respect, the Director, after giving notice and opportunity to be
23 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
24 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain
25 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

26 **8. Maintain Valid License.** Respondent shall, at all times while on probation, maintain
27 a current and active registration and/or license(s) with BAR, including any period during which
28 suspension or probation is tolled. If Respondent's registration or license is expired at the time the

1 decision becomes effective, the registration or license must be renewed by Respondent within 30
2 days of that date. If Respondent's registration or license expires during a term of probation, by
3 operation of law or otherwise, then upon renewal Respondent's registration or license shall be
4 subject to any and all terms and conditions of probation not previously satisfied. Failure to
5 maintain a current and active registration and/or license during the period of probation shall also
6 constitute a violation of probation.

7 **9. Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$4,949.85
8 for the reasonable costs of the investigation and enforcement of case No. 79/21-16673.
9 Respondent shall make such payment as follows: Thirty (30) monthly payments in the amount of
10 \$165.00 per month. Any agreement for a scheduled payment plan shall require full payment to be
11 completed no later than six (6) months before probation terminates. Respondent shall make
12 payment by check or money order payable to the Bureau of Automotive Repair and shall indicate
13 on the check or money order that it is for cost recovery payment for case No. 79/21-16673. Any
14 order for payment of cost recovery shall remain in effect whether or not probation is tolled.
15 Probation shall not terminate until full cost recovery payment has been made. BAR reserves the
16 right to pursue any other lawful measures in collecting on the costs ordered and past due, in
17 addition to taking action based upon the violation of probation.

18 **10. Completion of Probation.** Upon successful completion of probation, Respondent's
19 affected registration and/or license will be fully restored or issued without restriction, if
20 Respondent meets all current requirements for registration or licensure and has paid all
21 outstanding fees, monetary penalties, or cost recovery owed to BAR.

22 **11. License Surrender.** Following the effective date of a decision that orders a stay of
23 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
24 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
25 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
26 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
27 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
28 granting of the request, the Director will vacate the stay order and carry out the disciplinary order

provided in the decision. Respondent may not petition the Director for reinstatement of the surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of BAR at any time before the date of the originally scheduled completion of probation. If Respondent applies to BAR for a registration or license at any time after that date, Respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

12. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 285810 issued to Respondent is suspended for seven (7) consecutive days beginning on the effective date of the Decision and Order.

13. **Actual Suspension.** Smog Check, Test Only, Station License Number TC 285810 issued to Respondent is suspended for seven (7) consecutive days beginning on the effective date of the Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael B. Levin, Esq. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration and Smog Check, Test Only, Station License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: December 28, 2022

Signature on File

MORTEZA GHAREBAGHI – PRESIDENT/
SECRETARY/TREASURER MOSTAFA
GHAREBAGHI INC. DBA 5 POINTS SMOG
Respondent

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1 I have read and fully discussed with Respondent Morteza Gharebaghi – President/
2 Secretary/Treasurer Mostafa Gharebaghi, Inc. dba 5 Points Smog the terms and conditions and
3 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
4 form and content.

5 DATED: December 28, 2022

Signature on File

MICHAEL B. LEVIN, ESQ.
Attorney for Respondent

7
8 **ENDORSEMENT**

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

11 DATED: December 29, 2022

Respectfully submitted,

12
13 ROB BONTA
Attorney General of California
14 KIM KASRELIOVICH
Supervising Deputy Attorney General

15 Signature on File

16 ARTIN DEROHANIAN
Deputy Attorney General
17 *Attorneys for Complainant*
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