

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

In the Matter of the Statement of Issues Against:

GEORGE SEROUR NAKHLA

Applicant for Smog Check Inspector License

and

Applicant for Smog Check Repair
Technician License

Respondent.

Case No. 79/16-35s

OAH No. 2015110710

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 January 27, 2017.

DATED: December 19, 2016



RYAN MARCROFT
Assistant Chief Counsel
Division of Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
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7

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 79/16-35S

OAH No. 2015110710

13 **GEORGE SEROUR NAKHLA**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15
16 **Applicant for Smog Check Inspector
License**

17 **and**

18
19 **Applicant for Smog Check Repair
Technician License**

20 Respondent.
21

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

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

1 CULPABILITY

2 10. Respondent admits the truth of each and every charge and allegation in Statement of
3 Issues No. 79/16-35S.

4 11. Respondent agrees that his Smog Check Inspector License application is subject to
5 denial and he agrees to be bound by the Director's probationary terms as set forth in the
6 Disciplinary Order below.

7 12. Respondent agrees that his Smog Check Repair Technician License application is
8 subject to denial and he agrees to be bound by the Director's probationary terms as set forth in
9 the Disciplinary Order below.

10 CONTINGENCY

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

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

25 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

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

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Respondent's applications for Smog Check Inspector
8 License and Smog Check Repair Technician License will be approved and Respondent will be
9 granted the ability to complete the inspector/technician licensing exam. If successful in the exam,
10 the Bureau will issue the Smog Check Inspector License and Smog Check Repair Technician
11 License, whereupon those licenses shall be immediately revoked, stayed, and placed on probation
12 for a period two (2) years on the following terms and conditions:

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

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

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

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

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

1 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
 2 Respondent has failed to comply with the terms and conditions of probation, the Department may,
 3 after giving notice and opportunity to be heard, temporarily or permanently suspend or revoke the
 4 licenses.

5 7. **Continuing Education Courses.** During the period of probation, Respondent shall
 6 attend and successfully complete a Bureau certified training course in diagnosis and repair of
 7 emission systems failures and engine performance, applicable to the class of license held by the
 8 Respondent. Said course shall be completed and proof of completion submitted to the Bureau
 9 within 60 days of the effective date of this decision and order. If proof of completion of the
 10 course is not furnished to the Bureau within the 60-day period, Respondents' license shall be
 11 immediately suspended until such proof is received.

ACCEPTANCE

12
 13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 14 discussed it with my attorney, Michael B. Levin Esq. I understand the stipulation and the effect it
 15 will have on my Smog Check Inspector License, and Smog Check Repair Technician License. I
 16 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
 17 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
 18 Affairs.

19
 20 DATED: 05-27-16

George Serour Nakhla
 21 _____
 GEORGE SEROUR NAKHLA
 Respondent

22
 23 I have read and fully discussed with Respondent George Serour Nakhla the terms and
 24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 25 I approve its form and content.

26
 27 DATED: 5/28/16

Michael B. Levin
 28 _____
 MICHAEL B. LEVIN, ESQ.
 Attorney for Respondent

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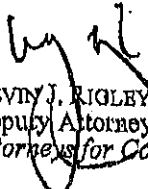
ENDORSEMENT

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

Dated: 5/27/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorney for Complainant

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Exhibit A

Statement of Issues No. 79/16-35S

Filed OAH

By: elruiz Date:11/18/15 11:31

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7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues Against:

12 **GEORGE SEROUR NAKHLA**

13 **Applicant for Smog Check Inspector License**

14 **And**

15 **Applicant for Smog Check Repair Technician**
16 **License**

17 **Respondent.**

Case No. 79/16-35s
STATEMENT OF ISSUES

18 Complainant alleges:

19 **PARTIES**

20 1. Patrick Dorais (Complainant) brings this Statement of Issues solely in his official
21 capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

22 **Application for Smog Check Inspector License**

23 2. On or about March 10, 2015, the Bureau of Automotive Repair (Bureau) received an
24 application for a Smog Check Inspector License from George Serour Nakhla (Respondent). On or
25 about February 19, 2015, George Serour Nakhla certified under penalty of perjury to the
26 truthfulness of all statements, answers, and representations in the application. The Bureau denied
27 the application on April 16, 2015.
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Application for Smog Check Repair Technician License

3. On or about March 10, 2015, the Bureau received an application for a Smog Check Repair Technician License from George Serour Nakhla (Respondent). On or about February 19, 2015, George Serour Nakhla certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on April 20, 2015.

PRIOR LICENSE INFORMATION

Technician Licenses EA/EO/EI 133386

4. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist Technician License No. EA 133386¹ to Respondent. The license was due to expire on September 30, 2012, but was cancelled on September 28, 2012. On or about September 28, 2012, the Bureau issued Smog Check Inspector License No. EO 133386 to Respondent. The license was due to expire on September 30, 2014, but was revoked on February 22, 2013. On or about September 28, 2012, the Bureau issued Smog Check Repair Technician License No. EI 133386 to Respondent. The license was due to expire on September 30, 2014, but was revoked on February 22, 2013.

Automotive Repair Dealer Registration No. ARD 223617

5. On or about October 24, 2002, the Bureau issued Automotive Repair Dealer Registration No. ARD 223617 to Soto Smog Incorporated, with George Serour Nakhla, as President. The Automotive Repair Dealer Registration expired on September 30, 2010, and was revoked on October 11, 2010.

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¹ Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to George Serour Nakhla's election as Smog Check Inspector (EO) License No. 133386 and Smog Check Repair Technician (EI) License No. 133386, effective September 28, 2012. The Smog Check Inspector (EO) License and Smog Check Repair Technician (EI) License was due to expire on September 30, 2014, however, were revoked on February 22, 2013.

1 **Smog Check Test Only Station License No. TC 223617**

2 6. On or about October 29, 2002, the Bureau issued Automotive Repair Dealer
3 Registration No. ARD 223617 to Soto Smog Incorporated, with George Serour Nakhla, as
4 President. The Automotive Repair Dealer Registration expired on September 30, 2010, and was
5 revoked on October 11, 2010.

6 **PRIOR DISCIPLINE-Case No. 79/12-60**

7 7. Effective February 22, 2013, pursuant to the Stipulated Revocation of License and
8 Order, Case No. 79/12-60, attached hereto as Exhibit "A" and incorporated herein by reference,
9 Respondent's Advanced Emission Specialist Technician License No. EA 133386 was
10 permanently revoked.

11 8. On or about December 8, 2011, Accusation/Petition to Revoke, Case No. 79/12-60,
12 was filed against Respondent's Advanced Emission Specialist Technician License, No. EA
13 133386. The Accusation/Petition to Revoke resulted from an undercover operation on October 4,
14 2011 that was initiated by the Bureau, as follows:

15 9. On or about October 4, 2011, a Bureau undercover operator ("operator") drove a
16 Bureau-documented 1988 Toyota Corolla to Soto Smog Incorporated, located at 1867 ½ E. First
17 Street, Los Angeles, California, for a smog inspection. The vehicle could not pass the visual
18 portion of the smog inspection because the vehicle's air injection system was missing. The
19 operator signed and received a copy of the work order. Respondent completed the smog
20 inspection and issued electronic Certificate of Compliance No. WZ496099, certifying that he had
21 tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and
22 regulations. The operator paid \$60 for the smog inspection and received a copy of Invoice No.
23 3067 and the Vehicle Inspection Report.

24 **PRIOR DISCIPLINE - Case No. 79/10-85**

25 10. Effective October 11, 2010, pursuant to the Stipulated Settlement and Disciplinary
26 Order, Case No. 79/10-85, attached hereto as Exhibit "B" and incorporated herein by reference,
27 the Automotive Repair Dealer Registration No. ARD 223617, Smog Check Test Only Station
28 License No. TC 223617, and Advanced Emission Specialist Technician License No. EA 133386

1 issued to Soto Smog Incorporated, with George Serour Nakhla, as President were all revoked.
2 However, the revocation as to Advanced Emission Specialist Technician License No. EA 133386
3 was stayed, placed on probation for 3 years, with terms and conditions.

4 11. On or about June 23, 2010, Accusation, Case No. 79/10-85, was filed against
5 Automotive Repair Dealer License No. ARD 223617 and Smog Check Station License No. TC
6 223617, issued to Soto Smog Incorporated, with George Serour Nakhla, as President. The
7 Accusation resulted from an undercover operation on September 9, 2009 that was initiated by the
8 Bureau, as follows:

9 12. On or about September 9, 2009, a Bureau undercover operator ("operator") drove a
10 Bureau documented 1987 Chevrolet Nova to Respondent's facility and requested a smog
11 inspection. The vehicle was missing the Exhaust Gas Recirculation ("EGR") system, rendering
12 the vehicle incapable of passing a smog inspection. Respondent quoted the operator \$60 for the
13 smog inspection. The operator completed and signed Estimate No. 23145, and was provided with
14 a copy. Gilbert Castillote, a licensed technician, performed the smog inspection and issued
15 electronic Certificate of Compliance No. WD293462, certifying that he had tested and inspected
16 the 1987 Chevrolet Nova, and that the vehicle was in compliance with applicable laws and
17 regulations, when in fact, the vehicle could not have passed the visual portion of the smog
18 inspection, in that the vehicle's EGR system was missing. The operator paid Respondent \$60,
19 and was provided with a copy of Invoice No. 23145.

20 **JURISDICTION**

21 13. This Statement of Issues is brought before the Bureau, under the authority of the
22 following laws. All section references are to the Business and Professions Code (Code) unless
23 otherwise indicated.

24 **STATUTORY PROVISIONS**

25 14. Section 480 states, in pertinent part:

26 "(a) A board may deny a license regulated by this code on the grounds that the applicant
27 has one of the following:

28

1 “(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
2 benefit himself or herself or another, or substantially injure another.

3 “(3) (A) Done any act that if done by a licentiate of the business or profession in question,
4 would be grounds for suspension or revocation of license.

5 “(B) The board may deny a license pursuant to this subdivision only if the crime or act is
6 substantially related to the qualifications, functions, or duties of the business or profession for
7 which application is made.

8 “(b) Notwithstanding any other provision of this code, a person shall not be denied a
9 license solely on the basis that he or she has been convicted of a felony if he or she has obtained a
10 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
11 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
12 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
13 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
14 Section 482.

15 “(c) Notwithstanding any other provisions of this code, a person shall not be denied a
16 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,
17 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been
18 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof
19 of the dismissal.”

20 15. Section 9889.1 provides, in pertinent part, that the Director may refuse to issue a
21 license to any applicant for the reasons set forth in section 9889.2.

22 16. Section 9889.2 states, in pertinent part:

23 “The director may deny a license if the applicant or any partner, officer, or director thereof;
24 ...

25 “(b) Was previously the holder of a license issued under this chapter which license has
26 been revoked and never reissued or which license was suspended and the terms of the suspension
27 have not been fulfilled.

28 ///

1 “(c) Has committed any act which, if committed by any licensee, would be grounds for the
2 suspension or revocation of a license issued pursuant to this chapter.

3 “(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is
4 injured or whereby the applicant has benefitted.”

5 17. Section 9889.3 states, in pertinent part:

6 “The director may suspend, revoke, or take other disciplinary action against a license as
7 provided in this article [Article 7 (commencing with section 9889.1) of Chapter 20.3 of Division
8 3 of the Business and Professions Code] if the licensee or any partner, officer, or director thereof:

9

10 “(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.”

11 18. Section 44072 of the Health and Safety Code provides, in pertinent part, that the
12 director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1.

13 19. Section 44072.1 of the Health and Safety Code states, in pertinent part:

14 “The director may deny a license if the applicant, or any partner, officer, or director thereof,
15 does any of the following:

16 ...

17 “(b) Was previously the holder of a license issued under this chapter [the Motor Vehicle
18 Inspection Program (Health and Saf. Code, ' 44000, et seq.)], which license has been revoked and
19 never reissued or which license was suspended and the terms of the suspension have not been
20 fulfilled.

21 “(c) Has committed any act which, if committed by any licensee, would be grounds for the
22 suspension or revocation of a license issued pursuant to this chapter.

23 “(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is
24 injured or whereby the applicant has benefitted.”

25 20. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
26 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
27 the Motor Vehicle Inspection Program.

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1 REGULATORY PROVISIONS

2 21. California Code of Regulations, title 16, section 3395.1 states:

3 "A person whose registration has previously been refused validation or who has committed
4 acts prohibited by Section 9884.7 of the Act shall, as a condition to any subsequent consideration
5 of an application for validation of his registration, submit evidence which is deemed to be
6 sufficient to establish his rehabilitation. The evidence of rehabilitation shall be submitted in
7 addition to any other information which may be required by the bureau."

8 FIRST CAUSE FOR DENIAL OF APPLICATIONS

9 (Previously Revoked Licenses)

10 22. Respondent's applications for a smog check inspector and a smog check repair
11 technician license are subject to denial pursuant to sections 9889.1, 9889.2, subdivision (b),
12 Health and Safety Code sections 44072, and 44072.1, subdivision (b), in that Respondent was
13 previously the holder of the following licenses:

14 a. In Case No. 79/12-60, Advanced Emission Specialist Technician License No. EA
15 133386 was permanently revoked, pursuant to the Stipulated Revocation of License and Order, as
16 more particularly set forth in Exhibit A and paragraphs 7 through 9 and incorporated herein by
17 reference.

18 b. In Case No. 79/10-85, Automotive Repair Dealer Registration No. ARD 223617,
19 Smog Check Station License No. TC 223617, and Advanced Emission Specialist Technician
20 License No. EA 133386 issued to Soto Smog Incorporated, with George Serour Nakhla, as
21 President were all revoked. However, the revocation as to Advanced Emission Specialist
22 Technician License No. EA 133386 was stayed and placed on probation for 3 years, with terms
23 and conditions, pursuant to the Stipulated Settlement and Disciplinary Order, as more particularly
24 set forth in Exhibit B and paragraphs 10 through 12 and incorporated herein by reference.

25 SECOND CAUSE FOR DENIAL OF APPLICATION

26 (Acts Constituting Dishonesty, Fraud or Deceit)

27 23. Respondent's applications for a smog check inspector and a smog check repair
28 technician license are subject to denial pursuant to sections 480, subdivision (a)(2), 9889.1,

1 9889.2, subdivision (d), and Health and Safety Code section 44072.1, subdivision (d), in that
2 Respondent committed acts involving dishonesty, fraud or deceit, with the intent to substantially
3 benefit himself, or substantially injure another. Complainant refers to, and by this reference
4 incorporates, the allegations set forth above in paragraphs 7 through 12, and 22, inclusive, as
5 though set forth fully.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 **(Acts If Committed by a Licentiate Constitute Grounds for Discipline)**

8 24. Respondent's application for a smog check inspector and a smog check repair
9 technician license are subject to denial pursuant to sections 480, subdivisions (a)(3)(A), (a)(3)(B),
10 9889.1, 9889.2, subdivision (c), Health and Safety Code sections 44072, and 44072.1, subdivision
11 (c), in that Respondent committed acts which if committed by any licensee would be grounds for
12 suspension or revocation of a license issued by this chapter, as follows:

13 a. Respondent was previously the holder of the following licenses: 1) Advanced
14 Emission Specialist Technician License No. EA 133386 was permanently revoked, pursuant to
15 the Stipulated Revocation of License and Order, Case No. 79/12-60, as more particularly set forth
16 in Exhibit A and incorporated herein by reference; 2) Automotive Repair Dealer License No.
17 ARD 223617, Smog Check Station License No. TC 223617, and Advanced Emission Specialist
18 Technician License No. EA 133386 issued to Soto Smog Incorporated, with George Serour
19 Nakhla, as President were all revoked. However, the revocation as to Advanced Emission
20 Specialist Technician License No. EA 133386 was stayed and placed on probation for 3 years,
21 with terms and conditions, pursuant to the Stipulated Settlement and Disciplinary Order, Case No.
22 79/10-85, as more particularly set forth in Exhibit B and incorporated herein by reference.
23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraphs 7 through 12, and 22, inclusive, as though set forth fully.

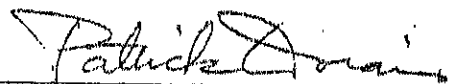
25 b. Respondent committed acts involving dishonesty, fraud, or deceit, in violation of
26 section 9889.3, subdivision (d). Complainant refers to, and by this reference incorporates, the
27 allegations set forth above in paragraphs 7 through 12, 22, and 23, inclusive, as though set forth
28 fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director issue a decision:

1. Denying the application of George Serour Nakhla for a Smog Check Inspector License;
2. Denying the application of George Serour Nakhla for a Smog Check Repair Technician License; and
3. Taking such other and further action as deemed necessary and proper.

DATED: October 7, 2015 

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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