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

In the Matter of the Accusation Against:
**KEN DAVIS SMOG
KENNETH RAY DAVIS, OWNER
6160 SEBASTOPOL AVENUE
SEBASTOPOL, CA 95472**
**AUTOMOTIVE REPAIR DEALER
REGISTRATION No. ARD 259789
SMOG CHECK TEST ONLY STATION LICENSE
NO. TC 259789**
AND
**KENNETH RAY DAVIS
P. O. BOX 676
GRATON, CA 95444**
**ADVANCED EMISSIONS SPECIALIST
TECHNICIAN LICENSE NO. EA 140329**

Respondent.

Case No. 79/15-49

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 2, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-49 against Ken Davis Smog, Kenneth Ray Davis, owner, and Kenneth Ray Davis,

1 technician (Respondent) before the Director of Consumer Affairs. (Accusation attached as
2 exhibit A.)

3 2. On or about October 27, 2009, the Bureau issued Automotive Repair Dealer
4 Registration Number ARD 259789 to Ken Davis Smog, Kenneth Ray Davis, Owner (Respondent
5 KDS). The Automotive Repair Dealer Registration (registration) was in full force and effect at
6 all times relevant to the charges brought in this Accusation. The registration expired on or about
7 September 30, 2011, and has not been renewed.

8 3. On or about November 16, 2009, the Bureau issued Smog Check Test Only Station
9 License Number TC 259789 to Respondent KDS. The Smog Check Test Only Station License
10 (station license) was in full force and effect at all times relevant to the charges brought in this
11 Accusation. The station license expired on or about September 30, 2011, and has not been
12 renewed.

13 4. In or about 2003, the Bureau issued Advanced Emissions Specialist Technician
14 License Number EA 140329 (to be re-designated upon renewal as EO 140329 and/or EI 140329¹)
15 to Respondent Kenneth Ray Davis (Respondent Davis). The Advanced Emissions Specialist
16 Technician License (technician license) was in full force and effect at all times relevant to the
17 charges brought in this Accusation. The technician license was suspended on December 5, 2011,
18 was not renewed, and expired on or about October 31, 2013.

19 5. On or about October 6, 2014, Respondent was served by Certified and First Class
20 Mail copies of the Accusation No. 79/15-49, Statement to Respondent, Notice of Defense,
21 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
22 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
23 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
24 address of record was and is: 6160 Sebastopol Avenue, Sebastopol, CA 95472, and P. O. Box 676
25 Graton, CA 95444.

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 are supported by the evidence contained in the affidavit of Bureau Representative Joseph Cheung
2 in this case:

3 a Failure to comply with an order by the Bureau to pay an administrative fine issued
4 (Health & Saf. Code, § 44050, subd. (e)); and

5 b. Failure to comply with an order by the Bureau to complete a remedial training course
6 (Health & Saf. Code, § 44050, subd. (c), and Cal. Code of Regs., tit. 16, § 3340.30, subd. (d)).

7 **ORDER**

8 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 259789 and
9 Smog Check Test Only Station License No. TC 259789 issued to Ken Davis Smog, Kenneth Ray
10 Davis, owner, and Advanced Emissions Specialist Technician License No. EA 140329 issued to
11 Respondent Kenneth Ray Davis, are revoked.

12 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
13 written motion requesting that the Decision be vacated and stating the grounds relied on within
14 seven days after service of the Decision on Respondent. The motion should be sent to the Bureau
15 of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
16 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
17 on a showing of good cause, as defined in the statute.

18 This Decision shall become effective on February 24, 2015.

19 It is so ORDERED 01/05/15

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21 

22 TAMARA COLSON
23 Assistant General Counsel
24 Department of Consumer Affairs

24 90447785.DOC/ DOJ Matter ID:SF2014902489

25 Attachment: Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/15-49

13 **KEN DAVIS SMOG**
14 **KENNETH RAY DAVIS, OWNER**
15 **6160 SEBASTOPOL AVENUE**
16 **SEBASTOPOL, CA 95472**

ACCUSATION

(SMOG CHECK)

17 **AUTOMOTIVE REPAIR DEALER REGISTRATION**
18 **No. ARD 259789**
19 **SMOG CHECK TEST ONLY STATION LICENSE NO.**
20 **TC 259789**

21 AND

22 **KENNETH RAY DAVIS**
23 **P. O. Box 676**
24 **GRATON, CA 95444**

25 **ADVANCED EMISSIONS SPECIALIST TECHNICIAN**
26 **LICENSE NO. EA 140329**

27 Respondent.

28 Complainant alleges:

PARTIES

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

1 **REGULATORY PROVISIONS**

2 14. California Code of Regulations, title 16, section 3340.28, subdivision (e), states:

3 Upon renewal of an unexpired Basic Area Technician license or an Advanced
4 Emission Specialist Technician license issued prior to the effective date of this
5 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check
6 Repair Technician, or both.

7 15. California Code of Regulations, title 16, section 3340.30, subdivision (d), states:

8 The bureau may suspend or revoke the license of or pursue other legal action
9 against a licensee that fails to complete retraining when required by the department,
10 pursuant to section 44045.6 of the Health and Safety Code.

11 **COST RECOVERY**

12 16. Code section 125.3 provides, in part, that a Board may request the administrative law
13 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
14 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Citation)**

17 17. Respondent KDS's registration and license are subject to discipline because it failed
18 to comply with an order by the Bureau to pay an administrative fine issued. (Health & Saf. Code,
19 § 44050, subd. (e).)

20 18. On or about October 4, 2011, the Bureau issued Citation No. C2012-0250 to
21 Respondent KDS against its registration and station license for failing to perform a
22 visual/functional check of emission control devices. (Health & Saf. Code, § 44012, subd. (f).)
23 The citation assessed a civil penalty of \$1,500.00. Respondent KDS did not appeal the citation or
24 pay the civil penalty within 30 days of receipt of the citation.

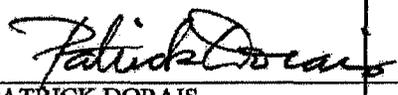
25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Citation)**

27 19. Respondent Davis's technician license is subject to discipline because he failed to
28 comply with an order by the Bureau to complete a remedial training course. (Health & Saf. Code,
§ 44050, subd. (c), and Cal. Code of Regs., tit. 16, § 3340.30, subd. (d).)

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1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 259789, issued to Ken Davis Smog, Kenneth Ray Davis, Owner;
2. Revoking or suspending Smog Check Test Only Station License Number TC 259789, issued to Ken Davis Smog, Kenneth Ray Davis, Owner;
3. Revoking or suspending Advanced Emissions Specialist Technician License Number EA 140329, issued to Kenneth Ray Davis;
7. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kenneth Ray Davis;
8. Ordering Ken Davis Smog, Kenneth Ray Davis, Owner, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
9. Taking such other and further action as deemed necessary and proper.

DATED: October 2, 2014 

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