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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. 79/12-115

13 **SCOTT DAVID JOHNSON**
14 **7086 Snyder Ridge Road**
15 **Mariposa, CA 95338**
16 **Advanced Emission Specialist Technician**
17 **License No. EA 143492**

A C C U S A T I O N
S M O G C H E C K

Respondent.

18 Complainant alleges:

PARTIES

- 19 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
20 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
21 2. On a date uncertain in 2001, the Bureau issued Advanced Emission Specialist
22 Technician License Number EA 143492 ("technician license") to Scott David Johnson
23 ("Respondent"). On March 22, 2011, the technician license was suspended. The technician
24 license will expire on November 30, 2012, under suspension.

STATUTORY PROVISIONS

- 25 3. 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.
28

1 4. Section 44050 of the Health and Safety Code states, in pertinent part:

2 (a) In addition to or in lieu of any other remedy or penalty, including, but
3 not limited to, education, training, or an office conference, the department may issue
4 a citation to a licensee, contractor, or fleet owner for a violation of the requirements
of this chapter or a regulation adopted pursuant to this chapter. The citation may
contain an order of abatement or the assessment of an administrative fine, or both.

5 (e) Failure to comply with an order of abatement or payment of an
6 administrative fine issued by the department pursuant to this section is grounds for
suspension or revocation of the license, or placing the license on probation.

7 5. Section 44055 of the Health and Safety Code, subdivision (b) states:

8 (b) The department may deny an application for the renewal of a test
9 station or repair station license if the applicant, or any partner, officer, or director
thereof, has failed to pay any civil penalty or administrative fine in accordance with
10 this article.

11 6. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
12 expiration or suspension of a license by operation of law, or by order or decision of the Director
13 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
14 the Director of jurisdiction to proceed with disciplinary action.

15 7. Section 44072.8 of the Health and Safety Code states:

16 When a license has been revoked or suspended following a hearing under
17 this article, any additional license issued under this chapter in the name of the
licensee may be likewise revoked or suspended by the director.

18 COST RECOVERY

19 8. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 CAUSE FOR DISCIPLINE

24 (Failure to Complete Training)

25 9. Respondent has subjected his technician license to discipline pursuant to Health and
26 Safety Code section 44050, subdivision (e), in that on or about December 29, 2010, the Bureau
27 issued Citation No. M2011-0744 to Respondent against his technician license for violations of
28 Health and Safety Code section 44032, (qualified technicians shall perform tests of emission

1 control systems and devices in accordance with section 44012 of that Code) and California Code
2 of Regulations, title 16, ("Regulation") section 3340.30, subdivision (a) (qualified technicians
3 shall inspect, test, and repair vehicles in accordance with sections 44012 and 44035 of the Health
4 and Safety Code, and Regulation section 3340.42). On January 28, 2011, the Bureau served
5 Respondent with the citation, which required Respondent to complete an 8-hour training course.
6 Respondent failed to appeal this citation within thirty (30) days of service of the citation or
7 complete the required training.

8 **OTHER MATTERS**

9 10. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
10 Technician License Number EA 143492, issued to Scott David Johnson, is revoked or suspended,
11 any additional license issued under this chapter in the name of said licensee may be likewise
12 revoked or suspended by the director.

13 **PRAYER**

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

- 16 1. Revoking or suspending Advanced Emission Specialist Technician License Number
17 EA 143492, issued to Scott David Johnson;
- 18 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
19 and Safety Code in the name of Scott David Johnson;
- 20 3. Ordering Scott David Johnson to pay the Bureau of Automotive Repair the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3; and,
- 23 4. Taking such other and further action as deemed necessary and proper.

24 DATED: 4/5/12

25 John Wallauch by Doug Balatti
26 JOHN WALLAUCH
27 Chief
28 Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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