

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

SCOTT DAVID JOHNSON
7086 Snyder Ridge Road
Mariposa, CA 95338

Advanced Emission Specialist Technician
License No. EA 143492

Respondent.

Case No. 79/12-115

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 5, 2012, Complainant John Wallauch, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/12-115 against Scott David Johnson (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about January 1, 2001, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 143492 to Respondent. The Advanced Emission Specialist Technician License will expire on November 30, 2012.

3. On or about April 30, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/12-115, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
3 record was and is:

4 7086 Snyder Ridge Road
5 Mariposa, CA 95338.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 5. On or about June 1, 2012, the aforementioned documents were returned by the U.S.
10 Postal Service marked "Not Deliverable as Addressed, Unable to forward". Three dates of
11 attempted service were noted on the envelope.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 79/12-115.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Director after
27 having reviewed the proof of service dated April 30, 2012, signed by Praveen K. Singh, and all
28 returned envelopes, finds Respondent is in default. The Director will take action without further
hearing and, based on Accusation, No. 79/12-115, proof of service and on the Affidavit of Bureau
Representative Roger Lehman, finds that the allegations in Accusation are true.

///

///

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$537.50 as of September 26, 2012.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Scott David Johnson has
6 subjected his Advanced Emission Specialist Technician License No. EA 143492 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Director of Consumer Affairs is authorized to revoke Respondent's Advanced
9 Emission Specialist Technician License based upon the following violations alleged in the
10 Accusation which are supported by the evidence contained in the affidavit of Bureau
11 Representative Roger Lehman in this case:

12 a. Health and Safety Code section 44050, subdivision (e), (failure to complete training)

13 **ORDER**

14 IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA
15 143492, heretofore issued to Respondent Scott David Johnson, is revoked.

16 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
17 written motion requesting that the Decision be vacated and stating the grounds relied on within
18 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
19 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
20 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
21 on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on 11/19/12.

23 It is so ORDERED October 22, 2012

24 
25 _____
26 DOREATHEA JOHNSON
27 Deputy Director, Legal Affairs
28 Department of Consumer Affairs

27 10960479.DOC
28 SA2012105245
Attachment: Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
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:
13 **SCOTT DAVID JOHNSON**
14 **7086 Snyder Ridge Road**
15 **Mariposa, CA 95338**
16 **Advanced Emission Specialist Technician**
License No. EA 143492
Respondent.

Case No. 79/12-115

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

17 Complainant alleges:

18 **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.

25 **STATUTORY PROVISIONS**

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

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

SA2012105245 - 10853635.doc