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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 Number 79/12-173

13 **BRANDON HUNTER THACH**
14 **780 Woodland Avenue**
San Leandro, CA 94577

DEFAULT DECISION AND ORDER

(Gov. Code, § 11520)

15 **Advanced Emission Specialist Technician**
16 **License Number EA 143825,**

Respondent.

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19 **FINDINGS OF FACT**

20 1. On or about June 21, 2012, complainant John Wallauch, in his official capacity as the
21 Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, filed
22 Accusation No. 79/12-173 against respondent Brandon Hunter Thach before the Director of
23 Consumer Affairs.

24 2. On or about January 1, 2003, the Bureau issued Advanced Emission Specialist
25 Technician License Number EA 143825 to respondent. This Advanced Emission Specialist
26 Technician License was in full force and effect at all times relevant to the charges brought in
27 Accusation Number 79/12-173 and will expire on March 31, 2013, unless renewed.

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1 3. On or about July 27, 2012, respondent was served by Certified and First Class Mail
2 copies of the Accusation Number 79/12-173; Statement to Respondent; Notice of Defense;
3 Request for Discovery; and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at respondent's address of record which, pursuant to Business and Professions Code
5 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
6 record was and is:

7 780 Woodland Avenue
8 San Leandro, California 94577

9 Accusation Number 79/12-173; Statement to Respondent; Notice of Defense; Request for
10 Discovery; Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7); and
11 the proof of service is attached as exhibit A. Service of the Accusation was effective as a matter
12 of law under the provisions of Government Code section 11505, subdivision (c) and/or Business
13 & Professions Code section 124.

14 4. On or about September 4, 2012, the above documents were returned by the U.S.
15 Postal Service.

16 5. Government Code section 11506, subdivision (c) states, in pertinent part:

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

21 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
23 Number 79/12-173.

24 7. Government Code section 11520, subdivision (a) states, in pertinent part:

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

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ORDER

IT IS SO ORDERED that Advanced Emission Specialist Technician License Number EA 143825, issued to respondent Brandon Hunter Thach, is revoked.

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

This Decision shall become effective on 12/12/12.

It is so ORDERED October 22, 2012



DORATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

90261766.DOC
DOJ Matter ID:SF2012900764

Attachment: exhibit A

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

11 In the Matter of the Accusation Against:	Case No. 79/12-173
12 BRANDON HUNTER THACH	A C C U S A T I O N
13 780 Woodland Avenue	S M O G C H E C K
14 San Leandro, CA 94577	
15 Advanced Emission Specialist Technician	
16 License No. EA 143825	
17 Respondent.	

18 Complainant alleges:

19 **PARTIES**

- 20 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
21 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
22 **Advanced Emission Specialist Technician License**
- 23 2. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist
24 Technician License Number EA 143825 ("technician license") to Brandon Hunter Thach
25 ("Respondent Thach"). The technician license was in full force and effect at all times relevant to
26 the charges brought herein and will expire on March 31, 2013, unless renewed.

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1 a. **Section 3340.30, subdivision (a):** Respondent Thach failed to inspect and test that
2 vehicle in accordance with Health and Safety Code section 44012.

3 b. **Section 3340.41, subdivision (c):** Respondent Thach entered false information into
4 the Emission Inspection System for electronic Certificate of Compliance No. OI671182C by
5 entering "Pass" for the visual inspection of the EVAP system when, in fact, the vehicle could not
6 pass the visual inspection because the vehicle's EVAP system was missing.

7 c. **Section 3340.42:** Respondent Thach failed to conduct the required smog tests and
8 inspections on that vehicle in accordance with the Bureau's specifications.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud or Deceit)**

11 12. Respondent Thach has subjected his technician license to discipline under Health and
12 Safety Code section 44072.2, subdivision (d), in that on or about December 16, 2011, regarding
13 the 2002 Dodge Dakota, he committed acts involving dishonesty, fraud or deceit whereby another
14 was injured by issuing electronic Certificate of Compliance No. OI671182C without performing a
15 bona fide inspection of the emission control devices and systems on that vehicle, thereby
16 depriving the People of the State of California of the protection afforded by the Motor Vehicle
17 Inspection Program.

18 **PRIOR CITATIONS**

19 13. To determine the degree of penalty, if any, to be imposed upon Respondent Thach,
20 Complainant alleges as follows:

21 a. On December 3, 2010, the Bureau issued Citation No. M2011-0664 to Respondent
22 Thach against his technician license for violations of Health and Safety Code section 44032,
23 (qualified technicians shall perform tests of emission control systems and devices in accordance
24 with section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation")
25 section 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
26 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
27 3340.42). Respondent Thach issued a certificate of compliance to a Bureau vehicle with a
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1 missing fuel evaporative canister. Respondent Thach was required to attend an 8-hour training
2 course. Respondent Thach complied with this citation on January 15, 2011.

3 b. On April 12, 2011, the Bureau issued Citation No. M2011-1163 to Respondent Thach
4 against his technician license for violations of Health and Safety Code section 44032, (qualified
5 technicians shall perform tests of emission control systems and devices in accordance with
6 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
7 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
8 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
9 3340.42). Respondent Thach issued a certificate of compliance to a Bureau vehicle with a
10 missing positive crankcase ventilation system. Respondent Thach was required to attend a 16-
11 hour training course. Respondent Thach appealed the citation on June 3, 2011, and the matter is
12 currently pending.

13 c. On August 31, 2011, the Bureau issued Citation No. M2012-0198 to Respondent
14 Thach against his technician license for violations of Health and Safety Code section 44032,
15 (qualified technicians shall perform tests of emission control systems and devices in accordance
16 with section 44012 of that Code). Respondent Thach issued a certificate of compliance to a
17 Bureau vehicle with the ignition timing adjusted beyond the manufacturer's specifications.
18 Respondent Thach was required to attend a Basic Clean Air Car Course. Respondent Thach
19 appealed the citation on November 1, 2011, and the matter is currently pending.

20 OTHER MATTERS

21 14. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
22 Technician License Number EA 143825, issued to Brandon Hunter Thach, is revoked or
23 suspended, any additional license issued under this chapter in the name of said licensee may be
24 likewise revoked or suspended by the director.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Director of Consumer Affairs issue a decision:
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- 1 1. Revoking or suspending Advanced Emission Specialist Technician License Number
- 2 EA 143825, issued to Brandon Hunter Thach;
- 3 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Brandon Hunter Thach;
- 5 3. Ordering Brandon Hunter Thach to pay the Bureau of Automotive Repair the
- 6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 7 Professions Code section 125.3; and,
- 8 4. Taking such other and further action as deemed necessary and proper.

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DATED: June 21 2012


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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