

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2219
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 79/15-66

13 **LAI CHO SAECHAO**
1033 Hannon Drive
14 San Pablo, CA 94806

A C C U S A T I O N

15 **Advanced Emission Specialist Technician**
License No. EA148192 (to be redesignated
16 upon renewal as EO and/or EI 148193)

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

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

23 2. Lai Cho Saechao was a licensed Smog Check Technician under SB 1997, the biennial
24 Smog Check Program implemented January 1, 1990. Respondent was issued Advanced Emission
25 Specialist Technician License No. EA148192 in 2003, and it was due to expire on May 31, 2013,
26 but was suspended on April 23, 2012.¹

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and 3340.30 were
28 amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and
(continued...)

1 JURISDICTION

2 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau of Automotive Repair, under the authority of the following laws. All section references
4 are to the Health and Safety Code unless otherwise indicated.

5 4. Code section 44002 states in part:

6 "The department shall have the sole and exclusive authority within the state for developing
7 and implementing the motor vehicle inspection program in accordance with this chapter.

8"

9 5. Business and Professions Code section 118, subdivision (b), provides that the
10 suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of
11 jurisdiction to proceed with a disciplinary action during the period within which the license may
12 be renewed, restored, reissued or reinstated.

13 6. Code section 44072.6 states:

14 "The expiration or suspension of a license by operation of law or by order or decision of the
15 director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
16 the director of jurisdiction to proceed with any investigation of, or action or disciplinary
17 proceedings against, the licensee, or to render a decision suspending or revoking the license."

18 STATUTORY PROVISIONS

19 7. Code section 44045.6 states in part:

20 "...

21 "(c) The department may require remedial training at a certified training facility or may
22 take disciplinary action, whichever the department determines to be the most appropriate, for any
23 licensed technician who the department determines cannot perform inspections, testing, or repairs
24 as required under the program. The failure to complete the remedial training when required by the

25
26 _____
27 (...continued)

28 Basic Area (EB) Technician license to Smog Check Inspector (EO) license and and/or Smog Check Repair
Technician (EI) license.

1 department shall be a ground for revocation or suspension of a smog check technician's license
2 under Section 44072.2.

3”

4 8. Code section 44050 states in part:

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

10 “. . .

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

14”

15 9. Code of Regulations, title 16, section 3340.24, subdivision (d), states:

16 “(d) The bureau may suspend or revoke the license of or pursue other legal action against a
17 licensee that fails to complete retraining when required by the department, pursuant to section
18 44045.6 of the Health and Safety Code.”

19 COST RECOVERY

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

24 FACTUAL BACKGROUND

25 11. On or about October 4, 2011, Respondent issued a certificate of compliance for a
26 Bureau of Automotive Repair (Bureau) undercover vehicle with a non-functional Exhaust Gas
27 Recirculation system. As a result, on or about November 18, 2011, the Bureau issued a citation
28

1 to Respondent requiring that he complete an "8-HOUR TRAINING COURSE, with proof of
2 completion submitted to [the Bureau] within thirty (30) days from the receipt of this citation."

3 12. The Bureau served the citation at a citation conference on March 14, 2012. The
4 Respondent did not appeal, and the citation became effective on April 13, 2012.

5 13. Respondent failed to provide proof of completion of the training course, as required
6 by the citation, and Respondent's Advanced Emission Specialist Technician License was
7 suspended on April 23, 2012.

8 FIRST CAUSE FOR DISCIPLINE

9 (Failure to Complete Training)

10 (Health & Safety Code §§ 44045.6, sub. (c), and 44050, sub. (e),
11 and Cal. Code Regs., title 16, § 3340.24, subd. (d))

12 14. Respondent has subjected his Advanced Emission Specialist Technician license to
13 discipline for his failure to complete remedial training when required by the Bureau. (Health &
14 Safety Code §§ 44045.6, sub. (c), and 44050, sub. (e), and Cal. Code Regs., title 16, § 3340.24,
15 subd. (d)). The circumstances are set forth in Paragraphs 11 through 13, above.

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
18 Accusation, and that following the hearing, the Director issue a decision:

- 19 1. Revoking or suspending Advanced Emission Specialist Technician License Number
20 EA148192 (to be redesignated upon renewal as EO and/or EI 148193), issued to Respondent;
21 2. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and
22 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: November 5, 2014

25 Patrick Dorais
26 PATRICK DORAIS

27 Chief
28 Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SF2014902631