

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PIERRE KITI
1890 Cache Creek
El Cajon, CA 92019

Smog Check Inspector License
No. EO 150271 (Formerly
Advanced Emissions Specialist
Technician License No.
EA 150271)

Case No. 79/15-46

Respondent.

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective March 16, 2015.

DATED: March 16, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA
11

12
13 In the Matter of the Accusation Against:

Case No. 79/15-46

14 **PIERRE KITI**
1890 Cache Creek
15 El Cajon, CA 92019

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

16 **Smog Check Inspector License No. EO**
150271

17 **Advanced Emission Specialist Technician**
18 **License No. EA 150271, (Formerly**
19 **Advanced Emissions Specialist Technician**
License No. EA 150271)

20 Respondent.
21

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
26 brought this action solely in his official capacity and is represented in this matter by Kamala D.
27 Harris, Attorney General of the State of California, by Lauro A. Paredes, Deputy Attorney
28 General.

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 **CULPABILITY**

6 9. Respondent understands that the charges and allegations in Accusation No. 79/15-46,
7 if proven at a hearing, constitute cause for imposing discipline upon his Advanced Emission
8 Specialist Technician License as well as for his Smog Check Inspector License.

9 10. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation and that those charges constitute cause for discipline.
12 Respondent hereby gives up his right to contest that cause for discipline exists based on those
13 charges.

14 11. Respondent understands that by signing this stipulation he enables the Director to
15 issue his order accepting the revocation of his Advanced Emission Specialist Technician License
16 and his Smog Check Inspector License without further process.

17 **CONTINGENCY**

18 12. This stipulation shall be subject to approval by the Director or the Director's designee.
19 Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of
20 Automotive Repair may communicate directly with the Director and staff regarding this
21 stipulation and revocation, without notice to or participation by Respondent or his counsel. By
22 signing the stipulation, Respondent understands and agrees that he may not withdraw his
23 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
24 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
25 Revocation and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
26 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
27 from further action by having considered this matter.

28

1 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
2 effect at the time the petition is filed, and all of the charges and allegations contained in
3 Accusation No. 79/15-46 shall be deemed to be true, correct and admitted by Respondent when
4 the Director determines whether to grant or deny the petition.

5 5. Respondent shall pay the agency its costs of investigation and enforcement in the
6 amount of \$715.00 prior to issuance of a new or reinstated license.

7 6. If Respondent should ever apply or reapply for a new license or certification, or
8 petition for reinstatement of a license, by any agency in the State of California, all of the charges
9 and allegations contained in Accusation, No. 79/15-46 shall be deemed to be true, correct, and
10 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
11 seeking to deny or restrict licensure.

12 **ACCEPTANCE**

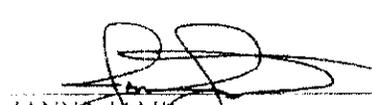
13 I have carefully read the above Stipulated Revocation of License and Order and have fully
14 discussed it with my attorney, Janna Jamil. I understand the stipulation and the effect it will have
15 on my Advanced Emission Specialist Technician License, and Smog Check Inspector License. I
16 enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and
17 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
18 Affairs.

19
20 DATED: 10-23-2014


21 PIERRE KITI
Respondent

22 I have read and fully discussed with Respondent Pierre Kiti the terms and conditions
23 and other matters contained in the above Stipulated Surrender and Disciplinary Order. I approve
24 its form and content.

25 DATED: 10/23/2014


26 JANNA JAMIL
Attorney for Respondent

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ENDORSEMENT

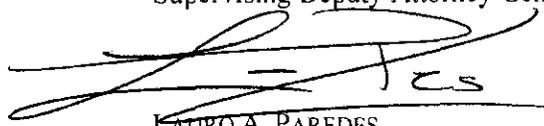
The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated:

1/23/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-46

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2 LINDA K. SCHNEIDER
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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 **PIERRE KITI**
1890 Cache Creek
14 El Cajon, CA 92019
15 **Smog Check Inspector License No. EO 150271**
(formerly Advanced Emission Specialist
16 **Technician License No. EA 150271),**
17 Respondent.

Case No. 19/15-46
ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity
22 as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
23 2. On January 1, 2004, the Bureau of Automotive Repair issued Advanced Emission
24 Specialist Technician License Number EA 150271 to Pierre Kiti (Respondent). The Advanced
25 Emission Specialist Technician License was due to expire on April 30, 2013, however, it was
26 cancelled on March 20, 2013.
27 3. On March 20, 2013, the Bureau of Automotive Repair issued Smog Check
28 Inspector License Number EO 150271 to Pierre Kiti (Respondent). The Smog Check Inspector

1 License was in full force and effect at all times relevant to the charges brought herein and will
2 expire on April 30, 2015, unless renewed. ¹

3 **JURISDICTION**

4 4. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
5 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
6 the Motor Vehicle Inspection Program.

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

11 6. California Code of Regulations, title 16 (Regulations), section 3340.28,
12 subdivision (e), states that “[u]pon renewal of an unexpired Basic Area Technician license or an
13 Advanced Emission Specialist Technician license issued prior to the effective date of this
14 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair
15 Technician, or both.”

16 **STATUTORY PROVISIONS**

17 7. Section 44045.6 of the Health and Safety Code states, in pertinent part:

18

19 (c) The department may require remedial training at a certified training
20 facility or may take disciplinary action, whichever the department determines to
21 be the most appropriate, for any licensed technician who the department
22 determines cannot perform inspections, testing, or repairs as required under the
23 program. The failure to complete the remedial training when required by the
24 department shall be a ground for revocation or suspension of a smog check
25 technician’s license under Section 44072.2.

24

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.

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

(a) In addition to or in lieu of any other remedy or penalty, including, but not limited to, education, training, or an office conference, the department may issue 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.

....

(e) Failure to comply with an order of abatement or payment of an 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.

9. Section 44072.2 of the Health and Safety Code states:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

- (a) Violates any section of this chapter and the regulations adopted pursuant to it, which related to the licensed activities.
- (b) Is convicted of any crime substantially related to the qualifications, functions, or duties of the licenseholder in question.
- (c) Violates any of the regulations adopted by the director pursuant to this chapter.
- (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.
- (e) Has misrepresented a material fact in obtaining a license.
- (f) Aids or abets unlicensed persons to evade the provisions of this chapter.
- (g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the records available for inspection.
- (h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

10. Section 44072.8 of the Health and Safety Code states:

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

///

1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request
3 the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
6 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
7 may be included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Failure to Pay Administrative Fine)**

10 12. Respondent has subjected his smog check inspector license to discipline under
11 Health and Safety Code (HSC) section 44050, subdivision (e), for failure to pay an
12 administrative fine. The circumstances are that on June 12, 2013, the Bureau issued Citation No.
13 M2013-0711 to Respondent against his smog check inspector license for violations of HSC
14 section 44032, failure of a qualified technician to perform tests of emission control systems and
15 devices in accordance with HSC section 44012; and California Code of Regulations (CCR), title
16 16, section 3340.30, subdivision (a), failure of a qualified technician to inspect, test, and repair
17 vehicles in accordance with section HSC sections 44012 and 44035 and CCR section 3340.42.
18 On July 19, 2013, a citation conference was held. The Bureau assessed an administrative fine in
19 the amount of \$500.00, payable to the Bureau within 30 days from the date of the citation service
20 conference. Respondent did not pay the administrative fine.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Failure to Complete Remedial Training)**

23 13. Respondent has subjected his smog check inspector license to discipline under
24 HSC section 44072.2, subdivision (a), for failure to complete remedial training when required by
25 the department pursuant to 44045.6, subdivision (c). The circumstances are that on June 12,
26 2013, the Bureau issued Citation No. M2013-0711 to Respondent against his smog check
27 inspector license for violations of HSC section 44032, failure of a qualified technician to perform
28 tests of emission control systems and devices in accordance with HSC section 44012; and

1 California Code of Regulations (CCR), title 16, section 3340.30, subdivision (a), failure of a
2 qualified technician to inspect, test, and repair vehicles in accordance with section HSC sections
3 44012 and 44035 and CCR section 3340.42. On July 19, 2013, a citation conference was held.
4 The Bureau directed Respondent to complete a 28-hour training course, to be scheduled within
5 30 days and proof of completion submitted to the Bureau within 60 days from the date of the
6 citation service conference. Respondent did not complete the required training course, did not
7 submit proof of completion of the course to the Bureau, and did not appeal the citation.

8 **OTHER MATTER**

9 14. Under Health and Safety Code section 44072.8, if smog check inspector license
10 number EO 150271, issued to Pierre Kiti, is revoked or suspended, any additional license issued
11 under this chapter in the name of said licensee may be likewise revoked or suspended by the
12 director.

13 **PRAYER**

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

- 16 1. Revoking or suspending Smog Check Inspector License Number EO 150271,
17 issued to Pierre Kiti;
- 18 2. Ordering Pierre Kiti to pay the Bureau of Automotive Repair the reasonable costs
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.
- 22
23

24 DATED: 9/26/14

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

Doug BAWATI
Asst. Chief

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