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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:
13 **JESUS JOSE RAMIREZ,**
14 **7516 Kingston Avenue,**
Hesperia, CA 92345
15 **Advanced Emission Specialist Technician License No. EA**
150343, (to be redesignated upon renewal as EO 150343
16 **and/or EI 150343)**
17
18 Respondent.

Case No. **79/15-33**

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

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 (“Bureau”), Department of Consumer Affairs.

23 **Advanced Emission Specialist Technician License**

24 2. In or about 2005, the Bureau of Automotive Repair issued Advanced Emission
25 Specialist Technician License Number EA 150343 to Jesus Jose Ramirez (“Respondent Ramirez
26 or Respondent”). The Advanced Emission Specialist Technician License was due to expire on
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1 April 30, 2013. However, it was suspended on April 15, 2013. Upon timely renewal of the
2 license, the license will be redesignated as EO 150343 and/or EI 150343.¹

3 JURISDICTION AND STATUTORY PROVISIONS

4 3. 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 4. 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 5. Section 44045.6 of the Health and Safety Code states, in pertinent part:

12 “(c) The department may require remedial training at a certified training facility or may
13 take disciplinary action, whichever the department determines to be the most appropriate, for any
14 licensed technician who the department determines cannot perform inspections, testing, or repairs
15 as required under the program. The failure to complete the remedial training when required by the
16 department shall be a ground for revocation or suspension of a smog check technician's license
17 under Section 44072.2.”

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

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

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

28 7. Section 44055 of the Health and Safety Code, subdivision (b) states, in pertinent part:

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.

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

5 8. Section 44072.8 of the Health and Safety Code states, in pertinent part:

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

9 **REGULATORY PROVISION**

10 9. California Code of Regulations (“CCR”), title 16, section 3320.24 subsection (d)
11 states:

12 (d) The bureau may suspend or revoke the license of or pursue other legal action against a
13 licensee that fails to complete retraining when required by the department, pursuant to section
14 44045.6 of the Health and Safety Code.

15 10. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
16 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section
17 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section
18 3340.42 of this article.”

19 **COST RECOVERY**

20 11. Section 125.3 of the Code provides, in pertinent part, that a 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 **FIRST CAUSE FOR DISCIPLINE**

25 **(Failure to Pay Administrative Fine/Complete Training)**

26 12. Respondent Ramirez has subjected his advanced emission specialist technician
27 license to discipline pursuant to Health and Safety Code sections 44050, subdivision (e), and
28 44045.6, and California Code of Regulations (“CCR”), title 16, section 3320.24 subsection (d) in
that on or about December 11, 2012 the Bureau issued Citation No. M2013-0397 to Respondent
Ramirez against his Advanced Emissions Specialist Technician license for violation of Health
and Safety Code section 44032, (Qualified technicians shall perform tests of emission control

1 systems and devices in accordance with section 44012 of the Health and Safety Code). On or
2 about February 5, 2013, the Bureau served Respondent with the citation. The Bureau ordered
3 Respondent Ramirez to pay \$1000.00 with payment due within 30 days of receipt of the Citation
4 and to attend a 68 hour training course with proof of completion submitted to the Bureau within
5 60 days of receipt of the Citation. Respondent Ramirez failed to appeal the citation and the
6 citation became effective on March 8, 2013. To date, Respondent Ramirez has failed to submit to
7 the Bureau payment of the fine and/or proof of completion of the 68 hour training course.

8 **OTHER MATTERS**

9 13. Pursuant to Health & Saf. Code section 44072.8, if Respondent Ramirez's Advanced
10 Emission Specialist Technician License currently designated as EA 150343 and as redesignated
11 upon timely renewal as EO 150343 and/or EI 150343, is revoked or suspended, any additional
12 license issued under this chapter in the name of said licensee may be likewise revoked or
13 suspended by the director.

14 **PRAYER**

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

17 1. Revoking or suspending Jesus Jose Ramirez's Advanced Emission Specialist
18 Technician License currently designated as EA 150343, and as redesignated upon timely renewal
19 as EO 150343 and/or EI 150343;

20 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
21 and Safety Code in the name of Jesus Jose Ramirez;

22 3. Ordering Jesus Jose Ramirez to pay the Bureau of Automotive Repair the reasonable
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions
24 Code section 125.3; and,

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4. Taking such other and further action as deemed necessary and proper.

DATED: September 3, 2014 

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

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