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

In the Matter of the Accusation Against:

JESUS JOSE RAMIREZ
7516 Kingston Avenue
Hesperia, CA 92345
Advanced Emission Specialist Technician
License No. EA 150343 (to be redesignated
upon renewal as EO 150343 and/or EI
150343)

Respondent.

Case No. 79/15-33

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 3, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-33 against Jesus Jose Ramirez (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)
2. In or about 2005, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 150343 to Respondent. The Advanced Emission Specialist Technician License expired on April 30, 2013, and has not been renewed. Upon timely renewal of the license, the license will be redesignated as EO 150343 and/or EI 150343.¹

¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
(continued...)

1 renewed. Upon timely renewal of the license, the license will be redesignated as EO 150343
2 and/or EI 150343.¹

3 3. On or about September 10, 2014, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 79/15-33, Statement to Respondent, Notice of Defense,
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
6 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
7 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
8 address of record was and is: 7516 Kingston Avenue, Hesperia, CA 92345.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about September 12, 2014, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Notice Left (No Authorized Recipient Available)." The address on
14 the documents was the same as the address on file with the Bureau. Respondent failed to
15 maintain an updated address with the Bureau and the Bureau has made attempts to serve the
16 Respondent at the address on file. Respondent has not made himself available for service and
17 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
24 79/15-33.

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Director after
7 having reviewed the proof of service dated September 10, 2014, signed by C. Vuu, and USPS
8 Track & Confirm Notice finds Respondent is in default. The Director will take action without
9 further hearing and, based on Accusation, No. 79/15-33, proof of service and on the Affidavit of
10 Bureau Representative Joseph B. Cheung, finds that the allegations in Accusation are true.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Jesus Jose Ramirez has subjected
13 his Advanced Emission Specialist Technician License No. EA 150343 to discipline.

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

15 3. The Director of Consumer Affairs is authorized to revoke Respondent's Advanced
16 Emission Specialist Technician License based upon the following violations alleged in the
17 Accusation which are supported by the evidence contained in the affidavit of Bureau
18 Representative Joseph B. Cheung in this case:

19 a. Respondent Ramirez has subjected his advanced emission specialist technician
20 license to discipline pursuant to Health and Safety Code sections 44050, subdivision (e), and
21 44045.6, and California Code of Regulations ("CCR"), title 16, section 3320.24 subsection (d) in
22 that on or about December 11, 2012 the Bureau issued Citation No. M2013-0397 to Respondent
23 Ramirez against his Advanced Emissions Specialist Technician license for violation of Health
24 and Safety Code section 44032, (Qualified technicians shall perform tests of emission control
25 systems and devices in accordance with section 44012 of the Health and Safety Code). On or
26 about February 5, 2013, the Bureau served Respondent with the citation. The Bureau ordered
27 Respondent Ramirez to pay \$1000.00 with payment due within 30 days of receipt of the Citation
28 and to attend a 68 hour training course with proof of completion submitted to the Bureau within
60 days of receipt of the Citation. Respondent Ramirez failed to appeal the citation and the

1 citation became effective on March 8, 2013. To date, Respondent Ramirez has failed to submit to
2 the Bureau payment of the fine and/or proof of completion of the 68 hour training course.

3 ORDER

4 IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA
5 150343, heretofore issued to Respondent Jesus Jose Ramirez, is revoked.

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

12 This Decision shall become effective on March 11, 2015.

13 It is so ORDERED February 17, 2015

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16 TAMARA COLSON
17 Assistant General Counsel
18 Department of Consumer Affairs

19 51619621.DOCX
20 DOJ Matter ID:LA2014512379

21 Attachment:
22 Exhibit A: Accusation

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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804

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:

Case No. 79/15-33

13 **JESUS JOSE RAMIREZ,**
14 **7516 Kingston Avenue,**
Hesperia, CA 92345

ACCUSATION
SMOG CHECK

15 **Advanced Emission Specialist Technician License No. EA**
16 **150343, (to be redesignated upon renewal as EO 150343**
17 **and/or EI 150343)**

18 Respondent.

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
27
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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.

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

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

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
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 **PRAAYER**

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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