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

11 In the Matter of the Accusation Against:

Case No. 79/15-24

12 **KEVIN TYRONE NEWTON**
13 **6321 37th Ave.**
14 **Sacramento, CA 95824**

A C C U S A T I O N

15 **Advanced Emission Specialist Technician**
16 **License No. EA 152888 (to be re-designated**
17 **upon renewal as EO 152888 and/or EI**
18 **152888)**

Respondent.

19
20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

24 2. In 2006, the Bureau issued Advanced Emission Specialist Technician License
25 Number EA 152888 to Kevin Tyrone Newton ("Respondent"). On or about January 24, 2012, the
26 license was suspended pursuant to Health and Safety Code section 44045.6(c) and California
27 Code of Regulations, title 16, section 3340.24(d) for failing to complete remedial training when
28 required by the Bureau, as more particularly set forth below in paragraph 9. The license expired

1 on June 30, 2012, and has not been renewed. Upon renewal of the license, the license will be re-
2 designated as EO 152888 and/or EI 152888.¹

3 **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 44050 of the Health and Safety Code states, in pertinent part:

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

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

16 5. Section 44055 of the Health and Safety Code, subdivision (b) states:

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

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

25 7. Section 44072.8 of the Health and Safety Code states:

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

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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 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 **COST RECOVERY**

2 8. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Citation)**

8 9. Respondent is subject to discipline pursuant to Health and Safety Code section
9 44050(e), in that on or about November 23, 2011, the Bureau issued Citation No. M2012-0494 to
10 Respondent against his technician license for violating Health and Safety Code section 44032
11 (qualified technicians shall perform tests of emission control systems and devices in accordance
12 with section 44012 of that Code) and California Code of Regulations, title 16, section 3340.30(a)
13 (qualified technicians shall inspect, test, and repair vehicles in accordance with sections 44012
14 and 44035 of the Health and Safety Code, and Regulation section 3340.42)². On or about
15 December 21, 2011, the Bureau served Respondent with the Citation. The Bureau required that
16 Respondent complete an 8-hour training course or appeal the Citation within thirty (30) days of
17 receipt of the Citation. Respondent did not appeal the Citation nor has Respondent completed the
18 required training.

19 **OTHER MATTERS**

20 10. Under Health and Safety Code section 44072.8, if Respondent's technician license,
21 currently designated as EA 152888, and as re-designated upon timely renewal as EO 152888
22 and/or EI 152888, is/are revoked or suspended, any additional license issued under this chapter in
23 the name of said licensee may be likewise revoked or suspended by the director.

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27 ² On or about October 28, 2011, Respondent issued Certificate of Compliance No.
28 OG993729 to a Bureau undercover vehicle with a missing Positive Crankcase Ventilation valve.

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PRAYER

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

1. Revoking or suspending Kevin Tyrone Newton's technician license, currently designated as EA 152888, and as re-designated upon renewal as EO 152888 and/or EI 152888;
2. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kevin Tyrone Newton;
3. Ordering Kevin Tyrone Newton to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: August 26, 2014 Patrick Dorais

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

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