

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

In the Matter of the Accusation Against:

ANTHONY D. TORRES
670 West 61st Street
Los Angeles, CA 90044
Advanced Emission Specialist Technician
License No. EA 154158

Respondent.

Case No. 79/15-34

OAH No. 2014110614

DECISION

The attached Stipulated Settlement and Disciplinary 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 April 30, 2015.

DATED: April 8, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS RINALDI
Supervising Deputy Attorney General
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6 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:
11 **ANTHONY D. TORRES**
12 **670 West 61st Street**
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Advanced Emission Specialist Technician
License No. EA 154158

Case No. 79/15-34
OAH No. 2014110614

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Respondent.

14 The parties agree as follows:

15 PARTIES

16 1. Complainant Patrick Dorais is the Chief of the Bureau of Automotive Repair. He
17 brought this action solely in his official capacity and is represented in this matter by Kamala D.
18 Harris, Attorney General of the State of California, by Geoffrey Ward, Deputy Attorney General.

19 2. Respondent Anthony D. Torres is represented in this proceeding by attorney Jeffrey
20 T. Osborn Esq., whose address is: 16152 Beach Blvd., Ste. 250, Huntington Beach, CA 92647.

21 3. In 2007, the Bureau of Automotive Repair issued Respondent Advanced Emission
22 Specialist Technician License No. EA 154158. The Advanced Emission Specialist Technician
23 License expired on April 30, 2013, however, it was suspended on October 22, 2012 and it has not
24 been renewed. Upon renewal of the license, the license will be redesignated as EO 154158 and/or
25 EI 154158.¹

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and
27 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA)
28 license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair
Technician (EI) license.

1 CULPABILITY

2 10. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 79/15-34.

4 11. Respondent agrees that his Advanced Emission Specialist Technician License is
5 subject to discipline and he agrees to be bound by the Director's probationary terms as set forth in
6 the Disciplinary Order below.

7 CIRCUMSTANCES IN MITIGATION

8 12. Respondent Anthony D. Torres submitted evidence that he belatedly complied with
9 the citation at issue in this case by completing the relevant courses.

10 CONTINGENCY

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

22 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 16. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No. EA
8 154158 issued to Respondent Anthony D. Torres (Respondent) is revoked. However, the
9 revocation is stayed and Respondent is placed on probation for one year on the following terms
10 and conditions.

11 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
12 automotive inspections, estimates and repairs.

13 2. **Reporting.** Respondent must report in person or in writing as prescribed by the
14 Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each
15 quarter, on the methods used and success achieved in maintaining compliance with the terms and
16 conditions of probation.

17 3. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
18 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

19 4. **Jurisdiction.** If an accusation is filed against Respondent during the term of
20 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
21 until the final decision on the accusation, and the period of probation shall be extended until such
22 decision.

23 5. **Violation of Probation.** Should the Director of Consumer Affairs determine that
24 Respondent has failed to comply with the terms and conditions of probation, the Department may,
25 after giving notice and opportunity to be heard suspend or revoke the license.

26 6. **Cost Recovery.** Payment to the Bureau of \$1,182.50 in cost recovery shall be
27 received no later than 6 months before probation terminates. Respondent will be permitted to pay
28 these costs in 6 consecutive, equal monthly installments with the final payment due 6 months

1 prior to termination of probation. Failure to complete payment of cost recovery within this time
 2 frame shall constitute a violation of probation which may subject Respondent's license to outright
 3 revocation; however, the Director or the Director's Bureau of Automotive Repair designee may
 4 elect to continue probation until such time as reimbursement of the entire cost recovery amount
 5 has been made to the Bureau.

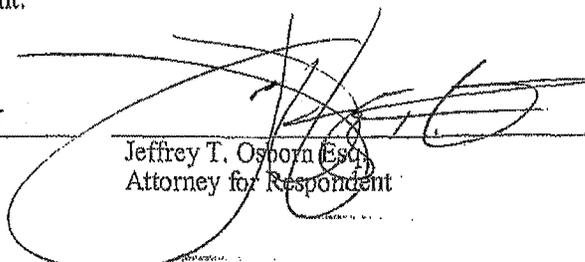
6 7. **Continuing Application of Probation Terms.** If Respondent renews his license, in
 7 compliance with California Code of Regulations, title 16, sections 3340.28, 3340.29, and
 8 3340.30, it will be redesignated as either a Smog Check Inspector (EO) license, or a Smog Check
 9 Repair Technician (EI) license, or both. This disciplinary order and its terms of probation will
 10 apply to any such redesignated license.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 13 discussed it with my attorney, Jeffrey T. Osborn Esq. I understand the stipulation and the effect it
 14 will have on my Advanced Emission Specialist Technician License and any redesignated license
 15 the Bureau may issue. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
 16 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
 17 Consumer Affairs.

18
 19 DATED: 3/5/15 
 20 ANTHONY D. TORRES
 Respondent

21 I have read and fully discussed with Respondent Anthony D. Torres the terms and
 22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 23 I approve its form and content.

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 25 DATED: 3/9/15 
 26 Jeffrey T. Osborn Esq.
 Attorney for Respondent

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ENDORSEMENT

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

Dated: 3/10/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS RINAUDI
Supervising Deputy Attorney General

GEOFFREY WARD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-34

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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 **ANTHONY D. TORRES,**
14 **670 West 61st Street,**
Los Angeles, CA 90044

15 **Advanced Emission Specialist Technician License No. EA**
16 **154158, (to be redesignated upon renewal as EO 154158**
17 **and/or EI 154158)**

18 Respondent.

Case No. **79/15-34**

ACCUSATION

SMOG CHECK

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 2007, the Bureau of Automotive Repair issued Advanced Emission
25 Specialist Technician License Number EA 154158 to Anthony D. Torres ("Respondent Torres or
26 Respondent"). The Advanced Emission Specialist Technician License was due to expire on April
27
28

1 30, 2013. However, it was suspended on October 22, 2012. Upon timely renewal of the license,
2 the license will be redesignated as EO 154158 and/or EI 154158.¹

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:

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 “(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
thereof, has failed to pay any civil penalty or administrative fine in accordance with
this article.”

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

4 “When a license has been revoked or suspended following a hearing
5 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.”

6 **REGULATORY PROVISION**

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

9 (d) The bureau may suspend or revoke the license of or pursue other legal action against a
10 licensee that fails to complete retraining when required by the department, pursuant to section
11 44045.6 of the Health and Safety Code.

12 10. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
13 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section
14 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section
15 3340.42 of this article.”

16 **COST RECOVERY**

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

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Failure to Complete Training)**

23 12. Respondent Torres has subjected his advanced emission specialist technician license
24 to discipline pursuant to Health and Safety Code sections 44050, subdivision (e), and 44045.6,
25 and California Code of Regulations (“CCR”), title 16, section 3320.24 subsection (d) in that on
26 or about August 21, 2012 the Bureau issued Citation No. M2013-0196 to Respondent Torres
27 against his Advanced Emissions Specialist Technician license for violation of Health and Safety
28 Code section 44032, (Qualified technicians shall perform tests of emission control systems and

1 devices in accordance with section 44012 of the Health and Safety Code). On or about
2 September 18, 2012, the Bureau served Respondent with the citation. The Bureau ordered
3 Respondent Torres to attend an 8 hour training course with proof of completion submitted to the
4 Bureau within 30 days of receipt of the Citation. Respondent Torres failed to appeal the citation
5 and the citation became effective on October 19, 2012. To date, Respondent Torres has failed to
6 submit to the Bureau proof of completion of the 8 hour training course.

7 **OTHER MATTERS**

8 13. Pursuant to Health & Saf. Code section 44072.8, if Respondent Torres's Advanced
9 Emission Specialist Technician License currently designated as EA 154158 and as redesignated
10 upon timely renewal as EO 154158 and/or EI 154158, is revoked or suspended, any additional
11 license issued under this chapter in the name of said licensee may be likewise revoked or
12 suspended by the director.

13 **PRAAYER**

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

16 1. Revoking or suspending Anthony D. Torres's Advanced Emission Specialist
17 Technician License currently designated as EA 154158, and as redesignated upon timely renewal
18 as EO 154158 and/or EI 154158;

19 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Anthony D. Torres;

21 3. Ordering Anthony D. Torres to pay the Bureau of Automotive Repair the reasonable
22 costs of the investigation and enforcement of this case, pursuant to Business and Professions
23 Code section 125.3; and,

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

DATED: September 4, 2014 Patrick Dorais

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

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