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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:

Case No. 79/14-113

13 **RODNEY THEODORE OVRID,**
14 **P.O. Box 1242,**
Littlerock, CA 93543

ACCUSATION

15 **Advanced Emission Specialist Technician License No. EA**
16 **038166, (to be redesignated upon renewal as EO 038166**
17 **and/or EI 038166)**

SMOG CHECK

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 1996, the Bureau of Automotive Repair issued Advanced Emission
25 Specialist Technician License Number EA 038166 to Rodney Theodore Ovrud ("Respondent
26 Ovrud or Respondent"). The Advanced Emission Specialist Technician License expired on June
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1 30, 2013, and has not been renewed. Upon timely renewal of the license, the license will be
2 redesignated as EO 038166 and/or EI 038166.¹

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 Complete Training)**

26 12. Respondent Ovrud has subjected his advanced emission specialist technician license
27 to discipline pursuant to Health and Safety Code sections 44050, subdivision (e), and 44045.6,
28 and California Code of Regulations (“CCR”), title 16, section 3320.24 subsection (d) in that on
or about August 18, 2011, the Bureau issued Citation No. M2010-1352 to Respondent Ovrud
against his Advanced Emissions Specialist Technician license for violations of Health and Safety
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) and California Code of
2 Regulations, title 16, section 3340.30 subsection (a), (qualified technicians shall inspect, test and
3 repair vehicles in accordance with section 44012 of the Health and Safety Code). On or about
4 July 23, 2010, the Bureau served Respondent with the citation. The Bureau ordered Respondent
5 Ovid to attend a 16 hour training course with proof of completion submitted to the Bureau within
6 30 days of receipt of the Citation. Respondent Ovid timely appealed the citation and a hearing
7 took place on October 12, 2011. An adopted decision reduced the mandated training from 16
8 hours to 8 hours. A petition for reconsideration was filed by Respondent and denied by the
9 Bureau on October 16, 2013. The Bureau's decision became effective on October 18, 2013. To
10 date, Respondent Ovid has failed to submit to the Bureau proof of completion of the 8 hour
11 training course.

12 OTHER MATTERS

13 13. Pursuant to Health & Saf. Code section 44072.8, if Respondent Ovid's Advanced
14 Emission Specialist Technician License currently designated as EA 038166 and as redesignated
15 upon timely renewal as EO 038166 and/or EI 038166, is revoked or suspended, any additional
16 license issued under this chapter in the name of said licensee may be likewise revoked or
17 suspended by the director.

18 PRAYER

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

21 1. Revoking or suspending Rodney Theodore Ovid's Advanced Emission Specialist
22 Technician License currently designated as EA 038166, and as redesignated upon timely renewal
23 as EO 038166 and/or EI 038166;

24 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of Rodney Theodore Ovid;

26 3. Ordering Rodney Theodore Ovid to pay the Bureau of Automotive Repair the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3; and,

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

DATED: April 8, 2014



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

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