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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:  
  
**SOON KU LEE**  
**17036 Montura Avenue**  
**San Diego, CA 92128**  
  
**Advanced Emission Specialist Technician**  
**License No. EA 40499**  
**(to be redesignated upon renewal as**  
**EO 40499 and/or EI 40499)**  
  
Respondent.

Case No. 79/15-18  
  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about August 12, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-18 against Soon Ku Lee (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. In or about 1997, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 40499 to Respondent. The Advanced Emission

1 Specialist Technician License expired on January 31, 2014, and has not been renewed. Upon  
2 timely renewal of the license, the license will be redesignated as EO 40499 and/or EI 40499.<sup>1</sup>

3 3. On or about August 14, 2014, Respondent was served by Certified and First Class  
4 Mail copies of Accusation No. 79/15-18, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
7 section 136, is required to be reported and maintained with the Bureau. Respondent's address of  
8 record was and is: 17036 Montura Avenue, San Diego, CA 92128.

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. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20 79/15-18.

21 7. California Government Code section 11520 states, in pertinent part:

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

26 8. Pursuant to its authority under Government Code section 11520, the Director after  
27 having reviewed the proof of service dated August 14, 2014, signed by J. Mejia, and receipt for  
28 certified mail delivery finds Respondent is in default. The Director will take action without

<sup>1</sup> 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 further hearing and, based on Accusation, No. 79/15-18, proof of service and on the Affidavit of  
2 Bureau Representative Joseph B. Cheung, finds that the allegations in Accusation are true.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Soon Ku Lee has subjected his  
5 Advanced Emission Specialist Technician License No. EA 40499 to discipline.

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

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

11 a. Failed to complete training in violation of Health and Safety Code section 44045.6,  
12 subdivision (c) and 44050, subdivision (e).

13 **ORDER**

14 IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA  
15 40499, heretofore issued to Respondent Soon Ku Lee, is revoked.

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

22 This Decision shall become effective on January 23, 2015.

23 It is so ORDERED January 2, 2015

24  
25   
26 \_\_\_\_\_  
27 TAMARA COLSON  
28 Assistant General Counsel  
Department of Consumer Affairs

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Attachment:  
Exhibit A: Accusation

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DAVID E. HAUSFELD  
Deputy Attorney General  
4 State Bar No. 110639  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2025  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**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. 79/15-18

13 **SOON KU LEE**  
14 **17036 Montura Drive**  
**San Diego, CA 92128**

**ACCUSATION**

*(SMOG CHECK)*

15 **Advanced Emission Specialist Technician**  
16 **License No. EA 40499**  
**(to be redesignated upon renewal as**  
17 **EO 40499 and/or EI 40499)**

18 Respondent.

19  
20  
21 Complainant alleges:

22 **PARTIES**

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

25 2. In 1997, the Bureau of Automotive Repair issued Advanced Emission Specialist  
26 Technician License (technician license) Number EA 40499 to Soon Ku Lee (Respondent).

27 Respondent Lee's technician license was in full force and effect at all times relevant to the  
28 charges brought herein. The Advanced Emission Specialist Technician License expired on

1 January 31, 2014, and has not been renewed. Upon timely renewal of the license, the license will  
2 be redesignated as EO 40499 and/or EI 40499.<sup>1</sup>

3 **JURISDICTION**

4 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the  
5 Bureau of Automotive Repair, under the authority of the following laws.

6 4. Section 118, subdivision (b), of the Business and Professions Code provides that the  
7 suspension, expiration, surrender or cancellation of a license shall not deprive the Director of  
8 jurisdiction to proceed with a disciplinary action during the period within which the license may  
9 be renewed, restored, reissued or reinstated.

10 5. Section 477 of the Business and Professions Code provides, in pertinent part, that  
11 "Board" includes "bureau," "commission," "committee," "department," "division," "examining  
12 committee," "program," and "agency." "License" includes certificate, registration or other means  
13 to engage in a business or profession regulated by the code.

14 6. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
15 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
16 the Motor Vehicle Inspection Program.

17 **STATUTORY PROVISIONS**

18 7. Section 44045.6, subdivision (c), of the Health and Safety Code states:

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

25 ///

26 <sup>1</sup> 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.

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

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

....

(c) An order of abatement issued pursuant to this section shall fix a reasonable time for abatement of the violation. An order of abatement may require any or all of the following:

....

(2) The smog check technician to successfully complete one or more retraining courses prescribed by the department pursuant to subdivision (c) of Section 44031.5, or successfully complete one or more advanced retraining courses prescribed by the department, or both.

....

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

....

9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

....

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

1 11. Section 44072.8 of the Health and Safety Code states:

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

5 **REGULATORY PROVISIONS**

6 12. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

7 (a) Any disciplinary or reinstatement proceeding under this article involving  
8 licensed stations, licensed technicians, or fleet owners licensed pursuant to section  
9 44020 of the Health and Safety Code shall be conducted in accordance with  
10 chapter 5 (commencing with section 11500) of division 3, Title 2 of the  
11 Government Code.

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

15 **COST RECOVERY**

16 13. Section 125.3 of the Business and Professions Code provides, in pertinent part, that  
17 the Board may request the administrative law judge to direct a licentiate found to have committed  
18 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
19 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the  
20 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
21 enforcement costs may be included in a stipulated settlement.

22 **CAUSE FOR DISCIPLINE**

23 **(Failure to Complete Training)**

24 14. Respondent has subjected his technician license to discipline pursuant to Health and  
25 Safety Code section 44045.6, subdivision (c) and 44050, subdivision (e), in that on or about May  
26 10, 2013, the Bureau issued Citation No. M2013-0651 to Respondent against his technician  
27 license for violations of Health and Safety Code section 44032 (qualified technicians shall  
28 perform tests of emission control systems and devices in accordance with section 44012 of that  
Code). On June 6, 2013, the Bureau served Respondent with the citation. The Bureau required  
that Respondent complete an 8-hour training course. However, Respondent did not appeal the

1 citation within thirty (30) days of service of the citation nor has Respondent completed the  
2 required training.

3 **OTHER MATTERS**

4 15. Under Health and Safety Code section 44072.8, if Soon Ku Lee's technician license  
5 currently designated as EA 40499 and as redesignated upon timely renewal as EO 40499 and/or  
6 EI 40499, is/are revoked or suspended, any additional license issued under this chapter in the  
7 name of said licensee may be likewise revoked or suspended by the director.

8 **PRAAYER**

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

11 1. Revoking or suspending Soon Ku Lee's technician license currently designated as EA  
12 40499 and as redesignated upon timely renewal as EO 40499 and/or EI 40499, is/are revoked or  
13 suspended;

14 2. Revoking or suspending any additional license issued under chapter 5, of the Health  
15 and Safety Code in the name of Soon Ku Lee;

16 3. Ordering Soon Ku Lee to pay the Bureau of Automotive Repair the reasonable costs  
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
18 section 125.3;

19 4. Taking such other and further action as deemed necessary and proper.  
20  
21

22 DATED: August 12, 2014



23 PATRICK DORAIS  
24 Chief  
25 Bureau of Automotive Repair  
26 Department of Consumer Affairs  
27 State of California  
28 *Complainant*

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