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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. 79/15-56

13 **MICHAEL VALENZUELA**
14 **2450 North Bryan Ave.**
15 **Fresno, CA 93723**
16 **Advanced Emission Specialist Technician**
17 **License No. EA 630355 (to be re-designated**
18 **upon renewal as EO 630355 and/or EI**
19 **630355)**

ACCUSATION

Respondent.

20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about July 28, 2008, the Bureau issued Advanced Emission Specialist
25 Technician License Number EA 630355 to Michael Valenzuela ("Respondent"). On July 5, 2012,
26 the license was suspended, license expired on March 31, 2014, and has not been renewed. Upon
renewal of the license, the license will be re-designated as EO 630355 and/or EI 630355.¹

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

(continued...)

1 **STATUTORY PROVISIONS**

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

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

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

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

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

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

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

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

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

27 **COST RECOVERY**

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

(...continued)
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 **CAUSE FOR DISCIPLINE**

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

3 9. Respondent is subject to discipline pursuant to Health and Safety Code section
4 44050(e), in that on or about May 8, 2012, the Bureau issued Citation No. M2012-1520 to
5 Respondent against his technician license for violating Health and Safety Code section 44032
6 (qualified technicians shall perform tests of emission control systems and devices in accordance
7 with section 44012 of that Code) and California Code of Regulations, title 16, section 3340.30(a)
8 (qualified technicians shall inspect, test, and repair vehicles in accordance with sections 44012
9 and 44035 of the Health and Safety Code, and Regulation section 3340.42)². On or about
10 June 1, 2012, the Bureau served Respondent with the Citation. The Bureau required that
11 Respondent complete an 8-hour training course or appeal the Citation within thirty (30) days of
12 receipt of the Citation. Respondent did not appeal the Citation nor has Respondent completed the
13 required training.

14 **OTHER MATTERS**

15 10. Under Health and Safety Code section 44072.8, if Respondent's technician license,
16 currently designated as EA 630355, and as re-designated upon timely renewal as EO 630355
17 and/or EI 630355, is/are revoked or suspended, any additional license issued under this chapter in
18 the name of said licensee may be likewise revoked or suspended by the director.

19 **PRAYER**

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

22 1. Revoking or suspending Michael Valenzuela's technician license, currently
23 designated as EA 630355, and to be re-designated upon renewal as EO 630355 and/or EI 630355;

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

26
27 _____
28 ² On or about April 11, 2012, Respondent issued Certificate of Compliance No.
XF531244 to a Bureau undercover vehicle with a missing Positive Crankcase Ventilation valve.

1 3. Ordering Michael Valenzuela to pay the Bureau of Automotive Repair the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

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

5 DATED: October 15, 2014



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

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