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

11 In the Matter of the Accusation Against:

Case No.

79/14-66

12 **MICHAEL CONRAD SEIBEL**
13 82 Rossi Drive
Galt, California 95632

ACCUSATION

14 **Advanced Emission Specialist Technician**
15 **License No. EA 632018 (to be designated**
16 **upon renewal as EO 632018 and/or**
17 **E1 632018)**

Respondent.

18 Patrick Dorais ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about April 26, 2010, the Bureau issued Advanced Emission Specialist
23 Technician License No. EA 632018 under the biennial Smog Check Program implemented
24 January 1, 1990 (Senate Bill 1997) to Michael Conrad Seibel (Respondent). The Advanced
25 Emission Specialist Technician License was suspended on April 19, 2011, pursuant to Family
26 Code section 17520 (failure to comply with a child or family support order). On April 20, 2011,
27 the license was also suspended on an additional ground as alleged in Paragraph 11. The license
28

1 expired while under suspension on September 30, 2012, and has not yet been renewed. If
2 renewed, the license will be re-designated as EO 632018 and/or E1 632018.¹

3 JURISDICTION

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

7 4. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
8 or suspension of a license by operation of law, or by order or decision of the Director of
9 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
10 Director of jurisdiction to proceed with disciplinary action.

11 5. Health and Safety Code section 44072.8 states that, "When a license has been
12 revoked or suspended following a hearing under this article, any additional license issued under
13 this chapter in the name of the licensee may be likewise revoked or suspended by the director."

14 6. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
15 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
16 Specialist Technician license issued prior to the effective date of this regulation, the license may
17 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

18 STATUTORY PROVISIONS

19 7. Health and Safety Code section 44050 provides, in pertinent part:

20 (a) In addition to or in lieu of any other remedy or penalty, including, but not
21 limited to, education, training, or an office conference, the department may issue a
22 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.

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

25 _____
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
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (E1) license.

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

5 8. Health and Safety Code section 44050 subdivision (e), states:

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

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

13 COST RECOVERY

14 10. Business and Professions Code section 125.3 provides, in pertinent part, that a Board
15 may request the administrative law judge to direct a licentiate found to have committed a
16 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
17 investigation and enforcement of the case.

18 CAUSE FOR DISCIPLINE

19 (Failure to Complete Training)

20 11. Respondent's license is subject to discipline pursuant to Health and Safety Code
21 section 44050, subdivision (e), in that on or about November 10, 2010, the Bureau issued Citation
22 No. M2011-0612 to Respondent against his license for violations of Health and Safety Code
23 section 44032 (qualified technicians shall perform tests of emission control systems and devices
24 in accordance with Health and Safety Code section 44012) and California Code of Regulations,
25 title 16 "(Regulations)", section 3340.30, subdivision (a) (qualified technicians shall inspect, test,
26 and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035, and
27 Regulation section 3340.42). On December 21, 2010, the Bureau personally served Respondent
28 with the citation, which required Respondent to complete an eight hour training course.
Respondent failed to file an appeal and the citation was deemed final on January 21, 2011.
Respondent did not submit proof of completion of remedial training required by the citation.

1 **OTHER MATTERS**

2 12. Under Health and Safety Code section 44072.8, if Respondent's Advanced Emission
3 Specialist Technician License, currently designated as EA 632018, but upon renewal will be re-
4 designated as EO 632018 and/or EI 632018, is revoked or suspended, any additional license
5 issued under this chapter in the name of Respondent may likewise be revoked or suspended.

6 **PRAYER**

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

9 1. Revoking or suspending Michael Conrad Seibel's Advanced Emission Specialist
10 Technician License currently designated as EA 632018, which upon renewal, will be re-
11 designated as EO 632018 and/or EI 632018;

12 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
13 and Safety Code in the name of Michael Conrad Seibel;

14 3. Ordering Michael Conrad Seibel to pay the Bureau of Automotive Repair the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3; and,

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

18
19 DATED: December 9, 2013



PATRICK DORAIS
Chief
Bureau of Automotive Repair I/M Smog
Department of Consumer Affairs
State of California
Complainant