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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:

Case No. 79/15-68

**JERRY JAY ANDREWS  
8520 Chesterfield Road  
Riverside, CA 92508**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**Advanced Emission Specialist Technician  
License No. EA 631426 (to be redesignated  
upon renewal as EO 631426 and/or EI  
631426)**

Respondent.

**FINDINGS OF FACT**

1. On November 7, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-68 against Jerry Jay Andrews (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On October 14, 2009, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 631426 (to be redesignated upon renewal as EO 631426 and/or EI 631426)<sup>1</sup> to Respondent. The Advanced Emission Specialist

<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 Technician License expired on May 31, 2013, and has not been renewed. This lapse in licensure,  
2 however, pursuant to Business and Professions Code sections 118(b) and 9884.13 does not  
3 deprive the Director or Chief of their authority to institute or continue this disciplinary  
4 proceeding or to render a decision invalidating the registration temporarily or permanently.

5 3. On November 19, 2014, Respondent was served by Certified and First Class Mail  
6 copies of Accusation No. 79/15-68, Statement to Respondent, Notice of Defense, Request for  
7 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
8 at Respondent's address of record which, pursuant to Business and Professions Code section  
9 136, is required to be reported and maintained with the Bureau. Respondent's address of record  
10 was and is 8520 Chesterfield Road, Riverside, CA 92508.

11 4. Service of the Accusation was effective as a matter of law under the provisions of  
12 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

13 5. On December 11, 2014, the aforementioned documents were returned by the U.S.  
14 Postal Service marked "Forwarding Address Expired, Return to Sender." The address on the  
15 documents was the same as the address on file with the Bureau. Respondent failed to maintain an  
16 updated address with the Bureau and the Bureau has made attempts to serve the Respondent at  
17 the address on file. Respondent has not made himself available for service and therefore, has not  
18 availed himself of his right to file a notice of defense and appear at hearing.

19 6. Government Code section 11506 states, in pertinent part:

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

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon  
26 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
27 No. 79/15-68.

28 8. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at  
the hearing, the agency may take action based upon the respondent's express

1 admissions or upon other evidence and affidavits may be used as evidence  
2 without any notice to respondent.

3 9. Pursuant to its authority under Government Code section 11520, the Director after  
4 having reviewed the proof of service dated November 19, 2014, and return envelopes finds  
5 Respondent is in default. The Director will take action without further hearing and, based on  
6 Accusation, No. 79/15-68, proof of service and on the Affidavit of Bureau Representative Joseph  
7 B. Cheung, finds that the allegations in the Accusation are true.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Jerry Jay Andrews has  
10 subjected his Advanced Emission Specialist Technician License No. EA 631426 to discipline.

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

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

16 a. Respondent has subjected his advanced emission specialist technician  
17 license to discipline under Health and Safety Code (HSC) section 44050, subdivision (e), in that  
18 on January 22, 2013, the Bureau issued Citation No. M2013-0517 to Respondent against his  
19 advanced emission specialist technician license for violations of HSC section 44032, failure of a  
20 qualified technician to perform tests of emission control systems and devices in accordance with  
21 HSC section 44012. On February 19, 2013, a citation conference was held. The Bureau assessed  
22 an administrative fine in the amount of \$500.00, payable to the Bureau within 30 days from the  
23 date of the citation service conference. Respondent did not pay the administrative fine.

24 b. Respondent has subjected his advanced emission specialist technician  
25 license to discipline under HSC section 44072.2, subdivision (a), in that on January 22, 2013, the  
26 Bureau issued Citation No. M2013-0517 to Respondent against his advanced emission specialist  
27 technician license for violations of HSC section 44032, failure of a qualified technician to  
28 perform tests of emission control systems and devices in accordance with HSC section 44012.

1 On February 19, 2013, a citation conference was held. The Bureau directed Respondent to  
2 complete a 28-hour training course, to be scheduled within 30 days and proof of completion  
3 submitted to the Bureau within 60 days from the date of the citation service conference.  
4 Respondent did not complete the required training course, did not submit proof of completion of  
5 the course to the Bureau, and did not appeal the citation.

6 **ORDER**

7 IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA  
8 631426, heretofore issued to Respondent Jerry Jay Andrews, is revoked.

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

15 This Decision shall become effective on March 11, 2015.

16 It is so ORDERED February 17, 2015

17  
18 

19  
20 TAMARA COLSON  
21 Assistant General Counsel  
22 Department of Consumer Affairs

23 70997088.DOC  
24 DOJ Matter ID:SD2014707933

25 Attachment:  
26 Exhibit A: Accusation

# Exhibit A

Accusation

---

1 KAMALA D. HARRIS  
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2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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6 San Diego, CA 92186-5266  
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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. 79/15-68

13 **JERRY JAY ANDREWS**  
14 **8520 Chesterfield Road**  
**Riverside, CA 92508**

**ACCUSATION**

*(SMOG CHECK)*

15 **Advanced Emission Specialist Technician**  
16 **License No. EA 631426 (to be redesignated**  
**upon renewal as EO 631426 and/or EI**  
17 **631426)**

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, Department of Consumer Affairs.

23 2. On October 14, 2009, the Bureau of Automotive Repair issued Advanced  
24 Emission Specialist Technician License Number EA 631426 to Jerry Jay Andrews (Respondent).  
25 The Advanced Emission Specialist Technician License was due to expire on May 31, 2013.  
26 However, it was suspended on April 23, 2013.<sup>1</sup>

27 \_\_\_\_\_  
28 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,

(continued...)

1 **JURISDICTION**

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

9 5. California Code of Regulations, title 16 (Regulations), section 3340.28,  
10 subdivision (e), states that “[u]pon renewal of an unexpired Basic Area Technician license or an  
11 Advanced Emission Specialist Technician license issued prior to the effective date of this  
12 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair  
13 Technician, or both.”

14 **STATUTORY PROVISIONS**

15 6. Section 44045.6 of the Health and Safety Code states, in pertinent part:

16 .....

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

24 .....

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

26 (a) In addition to or in lieu of any other remedy or penalty, including,  
27 but not limited to, education, training, or an office conference, the department  
28 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

(...continued)  
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 citation may contain an order of abatement or the assessment of an administrative  
2 fine, or both.

3 . . . .

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

7 8. Section 44072.2 of the Health and Safety Code states:

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

11 (a) Violates any section of this chapter and the regulations adopted  
12 pursuant to it, which related to the licensed activities.

13 (b) Is convicted of any crime substantially related to the qualifications,  
14 functions, or duties of the licenseholder in question.

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

17 (d) Commits any act involving dishonesty, fraud, or deceit whereby  
18 another is injured.

19 (e) Has misrepresented a material fact in obtaining a license.

20 (f) Aids or abets unlicensed persons to evade the provisions of this  
21 chapter.

22 (g) Fails to make and keep records showing his or her transactions as a  
23 licensee, or fails to have those records available for inspection by the director or  
24 his or her duly authorized representative for a period of not less than three years  
25 after completion of any transaction to which the records refer, or refuses to  
26 comply with a written request of the director to make the records available for  
27 inspection.

28 (h) Violates or attempts to violate the provisions of this chapter relating to  
the particular activity for which he or she is licensed.

9. Section 44072.8 of the Health and Safety Code states:

When a license has been revoked or suspended following a hearing 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.

### COST RECOVERY

10. Section 125.3 of the Business and Professions Code provides, in pertinent part,  
that the Bureau 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

1 costs of the investigation and enforcement of the case, with failure of the licentiate to comply  
2 subjecting the license to not being renewed or reinstated. If a case settles, recovery of  
3 investigation and enforcement costs may be included in a stipulated settlement.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Failure to Pay Administrative Fine)**

6 11. Respondent has subjected his advanced emission specialist technician license to  
7 discipline under Health and Safety Code (HSC) section 44050, subdivision (e), for failure to pay  
8 an administrative fine. The circumstances are that on January 22, 2013, the Bureau issued  
9 Citation No. M2013-0517 to Respondent against his advanced emission specialist technician  
10 license for violations of HSC section 44032, failure of a qualified technician to perform tests of  
11 emission control systems and devices in accordance with HSC section 44012. On February 19,  
12 2013, a citation conference was held. The Bureau assessed an administrative fine in the amount  
13 of \$500.00, payable to the Bureau within 30 days from the date of the citation service  
14 conference. Respondent did not pay the administrative fine.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to Complete Remedial Training)**

17 12. Respondent has subjected his advanced emission specialist technician license to  
18 discipline under HSC section 44072.2, subdivision (a), for failure to complete remedial training  
19 when required by the department pursuant to 44045.6, subdivision (c). The circumstances are  
20 that on January 22, 2013, the Bureau issued Citation No. M2013-0517 to Respondent against his  
21 advanced emission specialist technician license for violations of HSC section 44032, failure of a  
22 qualified technician to perform tests of emission control systems and devices in accordance with  
23 HSC section 44012. On February 19, 2013, a citation conference was held. The Bureau directed  
24 Respondent to complete a 28-hour training course, to be scheduled within 30 days and proof of  
25 completion submitted to the Bureau within 60 days from the date of the citation service  
26 conference. Respondent did not complete the required training course, did not submit proof of  
27 completion of the course to the Bureau, and did not appeal the citation.

28 ///

1 **OTHER MATTER**

2 13. Under Health and Safety Code section 44072.8, if advanced emission specialist  
3 technician license number EA 631426, (to be redesignated upon renewal as EO 631426 and/or EI  
4 631426), issued to Jerry Jay Andrews, is revoked or suspended, any additional license issued  
5 under this chapter in the name of said licensee may be likewise revoked or suspended by the  
6 director.

7 **PRAYER**

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

10 1. Revoking or suspending Advanced Emission Specialist Technician License  
11 Number EA 631426, issued to Jerry Jay Andrews;

12 2. Ordering Jerry Jay Andrews to pay the Bureau of Automotive Repair the  
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
14 Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16  
17  
18 DATED: November 7, 2014



19 PATRICK DORAIS  
20 Chief  
21 Bureau of Automotive Repair  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

25 SD2014707933  
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