

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 79/13-99

12 **ABHISHEK KUSHNEIL CHAND**
13 **540 Summer Garden Way**
Sacramento, CA 95833

A C C U S A T I O N

14 **Advanced Emission Specialist Technician**
15 **License No. EA 631479** (to be redesignated
upon renewal as EO 631479 and/or EI 631479)

S M O G C H E C K

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 **Advanced Emission Specialist Technician License**

23 2. On or about November 2, 2009, the Director of Consumer Affairs ("Director") issued
24 Advanced Emission Specialist Technician License Number EA 631479 ("technician license") to
25 Abhishek Kushneil Chand ("Respondent"). Respondent's technician license was suspended on

26 ///

27 ///

28 ///

1 September 9, 2010, and expired on June 30, 2011. Upon timely renewal of the license, the
2 license will be redesignated as EO 631479 and/or EI 631479.¹

3 **JURISDICTION**

4 3. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that
5 the Director may revoke an automotive repair dealer registration.

6 4. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
7 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
8 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
9 invalidating (suspending or revoking) a registration.

10 5. Health and Safety Code (“Health & Saf. Code”) section 44002 provides, in pertinent
11 part, that the Director has all the powers and authority granted under the Automotive Repair Act
12 for enforcing the Motor Vehicle Inspection Program.

13 6. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
14 suspension of a license by operation of law, or by order or decision of the Director of Consumer
15 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
16 of jurisdiction to proceed with disciplinary action.

17 7. Health & Saf. Code section 44072.8 states that when a license has been revoked or
18 suspended following a hearing under this article, any additional license issued under this chapter
19 in the name of the licensee may be likewise revoked or suspended by the director.

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

24 ///

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
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 not limited to, education, training, or an office conference, the department may issue a
2 citation to a licensee, contractor, or fleet owner for a violation of the requirements of this
3 chapter or a regulation adopted pursuant to this chapter. The citation may contain an order
4 of abatement or the assessment of an administrative fine, or both.

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

8 COST RECOVERY

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

13 CAUSE FOR DISCIPLINE

14 **(Failure to Complete Training)**

15 15. Respondent has subjected his technician licenses to discipline pursuant to Health and
16 Safety Code section 44050, subdivision (e), in that on or about March 2, 2010, the Bureau issued
17 Citation No. M2010-0880 to Respondent against his technician license for violations of Health
18 and Safety Code section 44032, (qualified technicians shall perform tests of emission control
19 systems and devices in accordance with section 44012 of that Code) and California Code of
20 Regulations, title 16, ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall
21 inspect, test, and repair vehicles in accordance with sections 44012 and 44035 of the Health and
22 Safety Code, and Regulation section 3340.42). On April 8, 2010, the Bureau served Respondent
23 with the citation, which required Respondent to complete an 8-Hour Training Course. However,
24 Respondent did not appeal the citation within thirty (30) days of service of the citation nor has
25 Respondent completed the required training.

26 OTHER MATTERS

27 16. Pursuant to Health & Saf. Code section 44072.8, if Respondent Abhishek Kushneil
28 Chand's technician license(s), currently designated as EA 631479 and as redesignated upon
timely renewal as EO 631479 and/or EI 631479, is/are revoked or suspended, any additional

///

1 license issued under this chapter in the name of said licensee may be likewise revoked or
2 suspended by the Director.

3 **PRAYER**

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

- 6 1. Revoking or suspending Abhishek Kushneil Chand's smog technician license(s),
7 currently designated as EA 631479 and as redesignated upon timely renewal as EO 631479
8 and/or 631479.
- 9 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
10 and Safety Code in the name of Abhishek Kushneil Chand;
- 11 3. Ordering Abhishek Kushneil Chand to pay the Bureau of Automotive Repair the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3; and,
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 6/13/13

16 *John Wallauch*
 17 JOHN WALLAUCH
 18 Chief
 19 Bureau of Automotive Repair
 20 Department of Consumer Affairs
 21 State of California
 22 *Complainant*

23
24
25
26
27 SA2012107791