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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. 79/13-99

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

DEFAULT DECISION AND ORDER

**Advanced Emission Specialist Technician
License No. EA 631479**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 13, 2013, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/13-99, against Abhishek Kushneil Chand (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about November 2, 2009, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 631479, to Respondent. The Advanced Emission Specialist Technician License expired on June 30, 2011, and has not been renewed.

3. On or about June 17, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/13-99, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
3 required to be reported and maintained with the Bureau. Respondent's address of record was and
4 is:

5 540 Summer Garden Way
6 Sacramento, CA 95833.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. Government Code section 11506 states, in pertinent part:

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

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 79/13-99.

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

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

24 8. Pursuant to its authority under Government Code section 11520, the Director after
25 having reviewed the proof of service dated June 17, 2013, signed by Celia Cruz, finds
26 Respondent is in default. The Director will take action without further hearing and, based on
27 Accusation No. 79/13-99, proof of service and on the Affidavit of Bureau Representative Roger
28 Lehman, finds that the allegations in Accusation No. 79/13-99, are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Abhishek Kushneil Chand has
subjected his Advanced Emission Specialist Technician License No. EA 631479 to discipline.

1 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
2 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
3 on a showing of good cause, as defined in the statute.

4 This Decision shall become effective on July 31, 2014.

5 It is so ORDERED July 14, 2014

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DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

11345321.DOC
DOJ Matter ID: SA2012107791

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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**

12 In the Matter of the Accusation Against:

Case No. 79/13-99

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

ACCUSATION

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

SMOG CHECK

16 Respondent.

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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

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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.

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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

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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.

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16 DATED: 6/13/13

John Wallauch by Doug Palani
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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