

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:
STEPHEN MICHAEL HOOVER
119 Clareview Ave.
San Jose, CA 95127
Smog Check Technician - Advanced
Emission Specialist License No. EA 632371

Respondent.

Case No. 79/12-125
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 27, 2012, Complainant John Wallauch, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/12-125 against Stephen Michael Hoover (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)
2. On or about August 9, 2010, the Bureau of Automotive Repair (Bureau) issued Smog Check Technician - Advanced Emission Specialist License No. EA 632371 to Respondent. The Smog Check Technician - Advanced Emission Specialist License will expire on December 12, 2012.
3. On or about May 22, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/12-125, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
2 record was and is:

3 119 Clareview Ave.
4 San Jose, CA 95127.

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

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

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 79/12-125.

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Director, after
23 having reviewed the proof of service dated May 22, 2012, signed by Luis E. Velez, finds
24 Respondent is in default. The Director will take action without further hearing and, based on
25 Accusation No. 79/12-125, the proof of service, and the Affidavit of Bureau Representative
26 Roger Lehman, finds that the allegations in the Accusation are true.

27 9. Taking official notice of its own internal records, pursuant to Business and
28 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement are \$770.00 as of August 14, 2012.

///

///

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Stephen Michael Hoover has
3 subjected his Smog Check Technician - Advanced Emission Specialist License No. EA 632371 to
4 discipline.

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

6 3. The Director of Consumer Affairs is authorized to revoke Respondent's Smog Check
7 Technician - Advanced Emission Specialist License based upon the following violation alleged in
8 the Accusation, which is supported by the evidence contained in the affidavit of Bureau
9 Representative Roger Lehman in this case:

10 a. Failure to complete training (Health & Safety Code section 44050, subdivision (e)).
11

12 ORDER

13 IT IS SO ORDERED that Smog Check Technician - Advanced Emission Specialist License
14 No. EA 632371, heretofore issued to Respondent Stephen Michael Hoover, is revoked.

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

21 This Decision shall become effective on 10/29/12.

22 It is so ORDERED October 11, 2012

23
24 
25 DORÉATHEA JOHNSON
26 Deputy Director, Legal Affairs
27 Department of Consumer Affairs

28 DOJ Matter ID:SF2012204020

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 79/12-125

12 **STEPHEN MICHAEL HOOVER**
119 Clareview Ave.
13 San Jose, CA 95127
Advanced Emission Specialist Technician
14 **License No. EA 632371**

ACCUSATION

SMOG CHECK

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 **Advanced Emission Specialist Technician License**

22 2. On or about August 9, 2010, the Bureau issued Advanced Emission Specialist
23 Technician License Number EA 632371 ("technician license") to Stephen Michael Hoover
24 ("Respondent"). The technician license was suspended on June 16, 2011, and will expire on
25 December 31, 2012.

26 ///

27 ///

28 ///

1 CAUSE FOR DISCIPLINE

2 (Failure to Complete Training)

3 9. Respondent has subjected his technician license to discipline pursuant to Health and
4 Safety Code section 44050, subdivision (e), in that on or about March 21, 2011, the Bureau issued
5 Citation No. M2011-1118 to Respondent against his technician license for violations of Health
6 and Safety Code section 44032, (qualified technicians shall perform tests of emission control
7 systems and devices in accordance with section 44012 of that Code) and California Code of
8 Regulations, title 16, ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall
9 inspect, test, and repair vehicles in accordance with sections 44012 and 44035 of the Health and
10 Safety Code, and Regulation section 3340.42). On April 14, 2011, the Bureau served Respondent
11 with the citation, which required Respondent to complete an 8-hour training course. However,
12 Respondent did not appeal the citation within thirty (30) days of service of the citation nor has
13 Respondent completed the required training.

14 OTHER MATTERS

15 10. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
16 Technician License Number EA 632371, issued to Stephen Michael Hoover, is revoked or
17 suspended, any additional license issued under this chapter in the name of said licensee may be
18 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 Advanced Emission Specialist Technician License Number
23 EA 632371, issued to Stephen Michael Hoover;

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

26 ///

27 ///

28 ///

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

4 4. Taking such other and further action as deemed necessary and proper.
5

6
7 DATED: _____

4/27/12

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

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 SF2012204020
10870719.doc
28