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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. 79/15-62

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14 **TRUNG HOANG DANG**  
15 **1239 Medley Drive**  
16 **San Jose, CA 95121**  
17 **Advanced Emission Specialist Technician**  
18 **License No. EA 633327**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

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Respondent.

**FINDINGS OF FACT**

1. On or about October 29, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-62 against Trung Hoang Dang (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about June 30, 2011, the Bureau of Automotive Repair (Bureau) issued Advanced Emission Specialist Technician License No. EA 633327 to Respondent. The Advanced Emission Specialist Technician License was due to expire on May 31, 2013, however

1 was suspended on April 23, 2012, and has not been renewed. (License history certification  
2 attached as Exhibit B.) Upon timely renewal of the license, the license will be redesignated at EO  
3 633327 and/or EI 633327.<sup>1</sup>

4 3. On or about November 6, 2014, Respondent was served by Certified and First Class  
5 Mail copies of the Accusation No. 79/15-62, Statement to Respondent, Notice of Defense,  
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
7 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
8 Code section 136, is required to be reported and maintained with the Bureau. (Service packet and  
9 USPS Track & Confirm Notice attached as Exhibit C). Respondent's address of record was and  
10 is:

11 1239 Medley Drive  
12 San Jose, CA 95121.

13 4. Service of the Accusation was effective as a matter of law under the provisions of  
14 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
15 124.

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

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

22 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
24 79/15-62.

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

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

<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.

8. Pursuant to its authority under Government Code section 11520, the Director after having reviewed the proof of service dated November 6, 2014, signed by Ann Lauber, and USPS Track & Confirm Notice finds Respondent is in default. The Director will take action without further hearing and, based on Accusation, No. 79/15-62, proof of service, and on the Affidavit of Bureau Representative Joseph Cheung, finds that the allegations in Accusation are true. (Affidavit of Joseph Cheung attached as Exhibit D)

### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Trung Hoang Dang has subjected his Advanced Emission Specialist Technician License No. EA 633327 to discipline.

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

3. The Director of Consumer Affairs is authorized to revoke Respondent's Advanced Emission Specialist Technician License based upon the following violation alleged in the Accusation which is supported by the evidence contained in the affidavit of Bureau Representative Joseph Cheung in this case: Respondent failed to complete remedial training when required to by the Bureau (Health & Saf. Code, §§ 44072.2, subd. (a), 44045.6, subd. (c); Cal. Code Regs., tit. 16, § 3340.24, subd. (d)).

ORDER

IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA 633327, heretofore issued to Respondent Trung Hoang Dang, is revoked.

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

7 This Decision shall become effective on January 22, 2016.

8 It is so ORDERED December 23, 2015

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12 TAMARA COLSON  
13 Assistant General Counsel  
14 Division of Legal Affairs  
15 Department of Consumer Affairs

16 90520587.DOC  
17 DOJ Matter ID:SF2014902661

18 Attachment:  
19 Exhibit A: Accusation  
20 Exhibit B: License Certification  
21 Exhibit C: Service Packet  
22 Exhibit D: Affidavit of Bureau Representative  
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# Exhibit A

Accusation No. 79/15-62

(TRUNG HOANG DANG)

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*Attorneys for Complainant*

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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. 79/15-62

13 **TRUNG HOANG DANG**  
1239 Medley Drive  
14 San Jose, CA 95121

**ACCUSATION**

15 **Advanced Emission Specialist Technician**  
16 **License No. EA 633327**

17 Respondent.

18 Complainant alleges:  
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20 **PARTIES**

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

23 2. On or about June 30, 2011, the Bureau of Automotive Repair issued Advanced  
24 Emission Specialist Technician License Number EA 633327 to Trung Hoang Dang (Respondent).

25 The Advanced Emission Specialist Technician License was due to expire on May 31, 2013.

26 However, the Advanced Emission Specialist Technician License was suspended on April 23,  
27 2012, and has not been renewed.

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1 as required under the program. The failure to complete the remedial training when required by  
2 the department shall be a ground for revocation or suspension of a smog check technician's  
3 license under Section 44072.2."

4 9. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

5 "(d) The bureau may suspend or revoke the license of or pursue other legal action against a  
6 licensee that fails to complete retraining when required by the department, pursuant to section  
7 44045.6 of the Health and Safety Code."

8 **COST RECOVERY PROVISION**

9 10. Section 125.3 of the Code provides, in pertinent part, that the Bureau 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, with failure of the licentiate to comply subjecting the license to not  
13 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
14 may be included in a stipulated settlement.

15 **FACTUAL BACKGROUND**

16 11. On January 25, 2012, Respondent issued Certificate of Compliance #O1848284 to a  
17 Bureau undercover vehicle with a missing "positive crankcase ventilation" valve. This vehicle  
18 had a tampered emission control system and Respondent should not have issued a Certificate of  
19 Compliance for the vehicle.

20 12. On February 23, 2012, the Bureau issued Citation #M2012-1017 to Respondent for  
21 conferring a Certificate of Compliance on a noncomplying vehicle. On March 13, 2012, the  
22 Bureau served the Citation on Respondent at a conference in San Jose. Under the terms of the  
23 Citation, the Bureau required Respondent to complete an eight-hour training course and submit  
24 proof of completion to the Bureau within 30 days of receipt of the Citation. If Respondent failed  
25 to comply with this requirement, the Bureau would suspend his technician qualification.

26 13. Respondent did not appeal the Citation and it became effective on April 12, 2012.  
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1 14. Respondent failed to comply with the terms of the Citation and submit proof that he  
2 had completed the required training within the allotted time period. On April 23, 2012, the  
3 Bureau suspended Respondent's Advanced Emission Specialist License.

4 **CAUSE FOR DISCIPLINE**

5 (Failure to Complete Training)

6 (Health & Saf. Code, §§ 44072.2, subd. (a), 44045.6, subd. (c); Cal. Code Regs., Tit. 16, §  
3340.24, subd. (d))

7 15. Respondent has subjected his license to disciplinary action because he failed to  
8 complete remedial training when required to by the Bureau. (Health & Saf. Code, §§ 44072.2,  
9 subd. (a), 44045.6, subd. (c); Cal. Code Regs., Tit. 16, § 3340.24, subd. (d).) The circumstances  
10 are set forth in paragraphs 11 through 14, above.

11 **PRAAYER**


12 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
13 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

14 1. Revoking or suspending Advanced Emission Specialist Technician License Number  
15 EA 633327, issued to Trung Hoang Dang;

16 2. Ordering Trung Hoang Dang to pay the Bureau of Automotive Repair the reasonable  
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
18 Code section 125.3; and

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

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22 DATED: October 29, 2014

  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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