

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

In the Matter of the Accusation Against:

Case No. 79/15-62

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

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

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 633327.¹

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
San Jose, CA 95121

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

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

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

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

1 Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
2 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
3 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
4 Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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

DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Trung Hoang Dang has
9 subjected his Advanced Emission Specialist Technician License No. EA 633327 to discipline.
10 2. The agency has jurisdiction to adjudicate this case by default.
11 3. The Director of Consumer Affairs is authorized to revoke Respondent's Advanced
12 Emission Specialist Technician License based upon the following violation alleged in the
13 Accusation which is supported by the evidence contained in the affidavit of Bureau
14 Representative Joseph Cheung in this case: Respondent failed to complete remedial training when
15 required to by the Bureau (Health & Saf. Code, §§ 44072.2, subd. (a), 44045.6, subd. (c); Cal.
16 Code Regs., tit. 16, § 3340.24, subd. (d).

ORDER

18 IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA
19 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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11 TAMARA COLSON
12 Assistant General Counsel
13 Division of Legal Affairs
14 Department of Consumer Affairs

15 90520587.DOC
DOJ Matter ID:SF2014902661

16 Attachment:
17 Exhibit A: Accusation
18 Exhibit B: License Certification
19 Exhibit C: Service Packet
20 Exhibit D: Affidavit of Bureau Representative

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Exhibit A

Accusation No. 79/15-62

(TRUNG HOANG DANG)

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14 *Attorneys for Complainant*

15 BEFORE THE
16 DEPARTMENT OF CONSUMER AFFAIRS
17 FOR THE BUREAU OF AUTOMOTIVE REPAIR
18 STATE OF CALIFORNIA

19 In the Matter of the Accusation Against:

20 Case No. *79115-62*

21 **TRUNG HOANG DANG**
22 1239 Medley Drive
23 San Jose, CA 95121

24 **ACCUSATION**

25 Advanced Emission Specialist Technician
26 License No. EA 633327

27 Respondent.

28 Complainant alleges:

PARTIES

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

3. On or about June 30, 2011, the Bureau of Automotive Repair issued Advanced
4. Emission Specialist Technician License Number EA 633327 to Trung Hoang Dang (Respondent).
5. The Advanced Emission Specialist Technician License was due to expire on May 31, 2013.
6. However, the Advanced Emission Specialist Technician License was suspended on April 23,
7. 2012, and has not been renewed.

8. *///*

JURISDICTION

2 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau of Automotive Repair (Bureau), under the authority of the following laws.

4. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
5 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
6 proceeding against an automotive repair dealer or to render a decision invalidating a registration
7 temporarily or permanently.

8 5. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
9 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
10 the Motor Vehicle Inspection Program.

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

STATUTORY PROVISIONS

16 7. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

20 "(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and
21 Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the
22 licensed activities.

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

25 8. Section 44045.6 of the Health and Safety Code states, in pertinent part:

26 "(c) The department may require remedial training at a certified training facility or may
27 take disciplinary action, whichever the department determines to be the most appropriate, for any
28 licensed technician who the department determines cannot perform inspections, testing, or repairs

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 though 14, above.

11 **PRAYER**

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

23 *Patrick Dorais*
24 PATRICK DORAI
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
 Complainant

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