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

11 In the Matter of the Accusation Against:

Case No.

79/15-43

12 **JESUS ALONSO MACIAS**
13 **1412 W. 96th Street**
14 **Los Angeles, CA 90047**

A C C U S A T I O N

15 **Advanced Emission Specialist Technician**
16 **License No. EA 634932 (to be redesignated**
upon renewal as EO 634932 and/or EI
634932)

17 Respondent.

18
19 Complainant alleges:

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 November 3, 2012, the Bureau of Automotive Repair (Bureau) issued
24 Advanced Emission Specialist Technician License Number EA 634932 to Jesus Alonso Macias
25 (Respondent).¹ The Advanced Emission Specialist Technician License was in full force and effect
26

27 ¹ Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), Respondent's
28 license will be redesignated as EO 634932 and/or EI 634932 upon renewal.

1 at all times relevant to the charges brought herein and will expire on March 31, 2015, unless
2 renewed.

3 **JURISDICTION**

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

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

10 5. Section 44002 of the HSC provides, in pertinent part, that the Director has all the
11 powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle
12 Inspection Program.

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

17 **PERTINENT STATUTES & REGULATIONS**

18 7. Section 123 of the BPC states, in pertinent part:

19 "It is a misdemeanor for any person to engage in any conduct which subverts or attempts to
20 subvert any licensing examination or the administration of an examination, including, but not
21 limited to:

22

23 "(b) Communicating with any other examinee during the administration of a licensing
24 examination; copying answers from another examinee or permitting one's answers to be copied by
25 another examinee; having in one's possession during the administration of the licensing
26 examination any books, equipment, notes, written or printed materials, or data of any kind, other
27 than the examination materials distributed, or otherwise authorized to be in one's possession
28

1 during the examination; or impersonating any examinee or having an impersonator take the
2 licensing examination on one's behalf”

3 8. Section 9889.3 of the BPC states, in pertinent part:

4 “The director may suspend, revoke, or take other disciplinary action against a license as
5 provided in this article if the licensee or any partner, officer, or director thereof:

6 “(a) Violates any section of the Business and Professions Code that relates to his or her
7 licensed activities.

8 . . .

9 “(e) Has misrepresented a material fact in obtaining a license”

10 9. Section 44072.2 of the HSC states, in pertinent part:

11 “ The director may suspend, revoke, or take other disciplinary action against a license as
12 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the
13 following:

14 “(a) Violates any section of this chapter and the regulations adopted pursuant to it, which
15 related to the licensed activities.

16 . . .

17 “(e) Has misrepresented a material fact in obtaining a license”

18 10. Section 44031.5, subdivision (a), of the HSC states:

19 “No smog check technician may perform tests or make repairs required by this chapter, for
20 compensation, unless qualified by the department for the class and category of vehicle being tested
21 or repaired. To qualify, smog check technicians shall pass a qualification test administered by the
22 department, in addition to meeting prerequisite minimum experience and training criteria
23 established by the department, pursuant to Section 44045.5. Passage of the qualification test shall,
24 and training may, also be required upon each biennial renewal of the smog check technician's
25 license.”

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1 11. Section 44032 of the HSC states:

2 “No person shall perform, for compensation, tests or repairs of emission control devices or
3 systems of motor vehicles required by this chapter unless the person performing the test or repair
4 is a qualified smog check technician and the test or repair is performed at a licensed smog check
5 station. Qualified technicians shall perform tests of emission control devices and systems in
6 accordance with Section 44012.”

7 12. California Code of Regulations, title 16, section 3340.29, subdivision (b), provides:

8 “An applicant for an inspector or repair technician license shall be subject to the following
9 requirements:

10 “(1) An applicant for an inspector or repair technician license shall pay an examination fee
11 and successfully complete and pass the appropriate examination in order to receive a license.

12 “(2) An applicant that receives a notice of qualification to take an examination, pursuant to
13 section 3303.2 of this Article, shall take the appropriate examination within 90 days of receipt of
14 notification of qualification to take the examination. A qualified applicant may attempt to pass the
15 examination two times per application. After two attempts the applicant shall submit a new
16 application to the bureau, pay an application fee of \$20, pay the examination fee and successfully
17 complete and pass the appropriate examination.”

18 **COST RECOVERY**

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Subversion of Licensing Examination)**

25 14. Respondent is subject to disciplinary action under BPC section 9889.3, subdivision (a),
26 in conjunction with in BPC section 123, subdivision (b), and HSC section 44002, in that
27 Respondent violated the BPC by subverting his licensing examination. The circumstances are as
28 follows:

1 a. Bureau records indicate that Respondent took and failed the Smog Technician
2 Licensing Examination on the following dates: April 6, 2012; April 23, 2012; May 22, 2012; and
3 July 18, 2012. On October 31, 2012, having failed the Smog Technician Licensing Examination
4 on four (4) prior occasions, Respondent subverted the examination by having his brother, Luis
5 Macias, impersonate him in order to take the examination in Respondent's place. Luis Macias was
6 previously a licensed smog technician; however, Luis Macias' license was revoked by the Bureau
7 in June 2013 following a criminal conviction involving fraudulent smog inspections.

8 b. When an applicant checks in to take the Smog Technician Licensing Examination they
9 must, at the time of examination, provide a photographic identification card, have their photograph
10 taken and provide a fingerprint to the testing authority. Accordingly, Respondent's photograph
11 and fingerprint were taken on each of the four (4) occasions on which he failed the examination.
12 Likewise, a photograph and fingerprint were taken of the individual who represented himself as
13 Respondent for the October 31, 2012, examination. Photographic and fingerprint analysis confirm
14 that Respondent's brother, Luis Macias, impersonated Respondent during the October 31, 2012,
15 examination.

16 SECOND CAUSE FOR DISCIPLINE

17 (Misrepresentation of Material Fact in Obtaining License)

18 15. Respondent is subject to disciplinary action under BPC section 9889.3, subdivision (e),
19 and HSC 44072.2, subdivision (e), in conjunction with HSC section 44002, in that Respondent
20 misrepresented a material fact in obtaining a license. Complainant refers to, and by this reference
21 incorporates, the allegations set forth above in paragraph 14, subparagraphs a – b, inclusive, as
22 though set forth fully herein.

23 THIRD CAUSE FOR DISCIPLINE

24 (Violation of the Motor Vehicle Inspection Program)

25 16. Respondent is subject to disciplinary action under HSC section 44072.2,
26 subdivision (a), in that Respondent violated the following provisions of the Motor Vehicle
27 Inspection Program: HSC section 44031.5, subdivision (a); HSC section 44032; and California
28 Code of Regulations, title 16, section 3340.29, subdivision (b). Complainant refers to, and by this

1 reference incorporates, the allegations set forth above in paragraph 14, subparagraphs a – b,
2 inclusive, as though set forth fully herein.

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 Advanced Emission Specialist Technician License Number
7 EA 634932, issued to Jesus Alonso Macias;

8 2. Ordering Jesus Alonso Macias to pay the Bureau of Automotive Repair the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
10 section 125.3;

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

12
13 DATED: September 19, 2014 

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

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