

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:
LAI CHO SAECHAO
1033 Hannon Drive
San Pablo, CA 94806
Advanced Emission Specialist Technician
License No. EA148192 (to be redesignated
upon renewal as EO and/or EI 148193)

Respondent.

Case No. 79/15-66

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 5, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-66 against Lai Cho Saechao (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. Lai Cho Saechao was a licensed Smog Check Technician under SB 1997, the biennial Smog Check Program implemented January 1, 1990. Respondent was issued Advanced Emission

1 Specialist Technician License No. EA148192 in 2003, and it was due to expire on May 31, 2013,
2 but was suspended on April 23, 2012.¹

3 3. On or about November 12, 2014, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 79/15-66, Statement to Respondent, Notice of Defense,
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
6 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
7 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
8 address of record was and is: 1033 Hannon Drive, San Pablo, CA 94806.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about November 17, 2014, the signed certified mail receipt was received from
13 Respondent.

14 6. Government Code section 11506 states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 79/15-66.

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

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

28 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 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 and/or Smog Check Repair
Technician (EI) license.

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

c. Code of Regulations, title 16, section 3340.24, subdivision (d), states:

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

ORDER

IT IS SO ORDERED that Advanced Emission Specialist (EA) No. EA148192, issued to Respondent Lai Cho Saechao, is revoked.

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

This Decision shall become effective on April 28, 2016.

It is so ORDERED March 31, 2016



Attachment:
Exhibit A: Accusation

TAMARA COLSON
Assistant General Counsel
Division of Legal Affairs
Department of Consumer Affairs

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2219
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant
8

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

11
12 In the Matter of the Accusation Against:

Case No. 79/15-66

13 **LAI CHO SAECHAO**
1033 Hannon Drive
14 San Pablo, CA 94806

ACCUSATION

15 **Advanced Emission Specialist Technician**
License No. EA148192 (to be redesignated
16 upon renewal as EO and/or EI 148193)

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. Lai Cho Saechao was a licensed Smog Check Technician under SB 1997, the biennial
24 Smog Check Program implemented January 1, 1990. Respondent was issued Advanced Emission
25 Specialist Technician License No. EA148192 in 2003, and it was due to expire on May 31, 2013,
26 but was suspended on April 23, 2012.¹

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and 3340.30 were
28 amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and
(continued...)

1 department shall be a ground for revocation or suspension of a smog check technician's license
2 under Section 44072.2.

3”

4 8. Code section 44050 states in part:

5 “(a) In addition to or in lieu of any other remedy or penalty, including, but not limited to,
6 education, training, or an office conference, the department may issue a citation to a licensee,
7 contractor, or fleet owner for a violation of the requirements of this chapter or a regulation
8 adopted pursuant to this chapter. The citation may contain an order of abatement or the
9 assessment of an administrative fine, or both.

10 “..”

11 (e) Failure to comply with an order of abatement or payment of an administrative fine
12 issued by the department pursuant to this section is grounds for suspension or revocation of the
13 license, or placing the licensee on probation.

14”

15 9. Code of Regulations, title 16, section 3340.24, subdivision (d), states:

16 “(d) The bureau may suspend or revoke the license of or pursue other legal action against a
17 licensee that fails to complete retraining when required by the department, pursuant to section
18 44045.6 of the Health and Safety Code.”

19 COST RECOVERY

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

24 FACTUAL BACKGROUND

25 11. On or about October 4, 2011, Respondent issued a certificate of compliance for a
26 Bureau of Automotive Repair (Bureau) undercover vehicle with a non-functional Exhaust Gas
27 Recirculation system. As a result, on or about November 18, 2011, the Bureau issued a citation

28

1 to Respondent requiring that he complete an "8-HOUR TRAINING COURSE," with proof of
2 completion submitted to [the Bureau] within thirty (30) days from the receipt of this citation."

3 12. The Bureau served the citation at a citation conference on March 14, 2012. The
4 Respondent did not appeal, and the citation became effective on April 13, 2012.

5 13. Respondent failed to provide proof of completion of the training course, as required
6 by the citation, and Respondent's Advanced Emission Specialist Technician License was
7 suspended on April 23, 2012.

8 FIRST CAUSE FOR DISCIPLINE

(Failure to Complete Training)

9 (Health & Safety Code §§ 44045.6, sub. (c), and 44050, sub. (e),
and Cal. Code Regs., title 16, § 3340.24, subd. (d))

10 14. Respondent has subjected his Advanced Emission Specialist Technician license to
11 discipline for his failure to complete remedial training when required by the Bureau. (Health &
12 Safety Code §§ 44045.6, sub. (c), and 44050, sub. (e), and Cal. Code Regs., title 16, § 3340.24,
13 subd. (d)). The circumstances are set forth in Paragraphs 11 through 13, above.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
16 Accusation, and that following the hearing, the Director issue a decision:

- 17 1. Revoking or suspending Advanced Emission Specialist Technician License Number
18 EA148192 (to be redesignated upon renewal as EO and/or EI 148193), issued to Respondent;
19 2. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and
20 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: November 5, 2014


24 PATRICK DORAIS
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant

SF2014902631