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

In the Matter of the Accusation Against:

Case No. 79/15-72

LARRY STEVEN OCCHIPINTI
1255 South Jackson #3
Red Bluff, CA 96080
Basic Area Smog Technician License No. EB
154593

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about November 7, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-72 against Larry Steven Occhipinti (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. In or about 2007, the Bureau of Automotive Repair (Bureau) issued Basic Area Smog Technician License No. EB 154593 to Respondent. The Basic Area Smog Technician License

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1 expired on July 31, 2013, and has not been renewed. Upon timely renewal of the license, the
2 license will be redesignated EO 154593 and/or EI 154593.¹

3 3. On or about November 14, 2014, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 79/15-72, 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: 1255 South Jackson #3, Red Bluff, CA 96080.

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 December 2, 2014, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Moved Left No Address, Unable to Forward, Return to Sender."
14 The address on the documents was the same as the address on file with the Bureau. Respondent
15 failed to maintain an updated address with the Bureau and the Bureau has made attempts to serve
16 the Respondent at the address on file. Respondent has not made himself available for service and
17 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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

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

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 79/15-72.

27 ///

28 ¹ 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.

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Director after
7 having reviewed the proof of service dated November 14, 2014, signed by Aja D. Lynch, (and
8 return envelopes) finds Respondent is in default. The Director will take action without further
9 hearing and, based on Accusation, No. 79/15-72, proof of service and on the Affidavit of Bureau
10 Representative Joseph Cheung, finds that the allegations in Accusation are true.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Larry Steven Occhipinti has
13 subjected his Basic Area Smog Technician License No. EB 154593 to discipline.

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

15 3. The Director of Consumer Affairs is authorized to revoke Respondent's Basic Area
16 Smog Technician License based upon the following violations alleged in the Accusation which
17 are supported by the evidence contained in the affidavit of Bureau Representative Joseph Cheung
18 in this case:

19 a. Respondent is subject to discipline pursuant to Health and Safety Code section
20 44050(e) for failure to comply with a citation issued by the Bureau, in that on or about April 5,
21 2012, the Bureau issued Citation No. M2012-1320 to Respondent against his technician license
22 for violating Health and Safety Code section 44032 (qualified technicians shall perform tests of
23 emission control systems and devices in accordance with section 44012 of that Code).² On or
24 about May 14, 2012, the Bureau served Respondent with the Citation. The Bureau required that
25 Respondent complete a 16-hour training course or appeal the Citation within thirty (30) days of

26 ///

27 ² On or about March 13, 2012, Respondent issued Certificate of Compliance No. [REDACTED]
28 to a Bureau undercover vehicle with a non-functional EGR (exhaust gas
recirculation) valve.

1 receipt of the Citation. Respondent did not appeal the Citation nor has Respondent completed the
2 required training.

3 ORDER

4 IT IS SO ORDERED that Basic Area Smog Technician License No. EB 154593, heretofore
5 issued to Respondent Larry Steven Occhipinti, is revoked.

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

12 This Decision shall become effective on July 21, 2015.

13 It is so ORDERED June 30, 2015

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16 

17 TAMARA COLSON
18 Assistant General Counsel
19 Department of Consumer Affairs

20 11728769.DOC
21 DOJ Matter ID:SA2014117000

22 Attachment:
23 Exhibit A: Accusation
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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 DAVID E. BRICE
Deputy Attorney General
4 State Bar No. 269443
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-8010
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:
13 **LARRY STEVEN OCCHIPINTI**
1255 South Jackson #3
14 Red Bluff, CA 96080
15 **Basic Area Smog Technician License No. EB**
154593 (to be re-designated upon renewal as
16 **EO 154593 and/or EI 154593)**
17 Respondent.

Case No. 79/15-72
ACCUSATION
(SMOG CHECK)

18 Patrick Dorais ("Complainant") alleges:

19 **PARTIES**

- 20 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
21 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
22 2. In 2007, the Bureau issued Basic Area Smog Technician License Number EB 154593
23 to Larry Steven Occhipinti ("Respondent"). The license expired on July 31, 2013, and has not
24 been renewed. Upon renewal of the license, the license will be re-designated as EO 154593
25 and/or EI 154593.¹

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 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.

1 CAUSE FOR DISCIPLINE

2 (Failure to Comply with Citation)

3 9. Respondent is subject to discipline pursuant to Health and Safety Code section
4 44050(e), in that on or about April 5, 2012, the Bureau issued Citation No. M2012-1320 to
5 Respondent against his technician license for violating Health and Safety Code section 44032
6 (qualified technicians shall perform tests of emission control systems and devices in accordance
7 with section 44012 of that Code).² On or about May 14, 2012, the Bureau served Respondent
8 with the Citation. The Bureau required that Respondent complete a 16-hour training course or
9 appeal the Citation within thirty (30) days of receipt of the Citation. Respondent did not appeal
10 the Citation nor has Respondent completed the required training.

11 OTHER MATTERS

12 10. Under Health and Safety Code section 44072.8, if Respondent's technician license,
13 currently designated as EB 154593, and as re-designated upon timely renewal as EO 154593
14 and/or EI 154593, is/are revoked or suspended, any additional license issued under this chapter in
15 the name of said licensee may be likewise revoked or suspended by the director.

16 PRAYER

17 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 19 1. Revoking or suspending Larry Steven Occhipinti's technician license, currently
20 designated as EB 154593, and as re-designated upon renewal as EO 154593 and/or EI 154593;
- 21 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
22 and Safety Code in the name of Larry Steven Occhipinti;
- 23 3. Ordering Larry Steven Occhipinti to pay the Bureau of Automotive Repair the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3;

26 _____
27 ² On or about March 13, 2012, Respondent issued Certificate of Compliance No. [REDACTED]
28 to a Bureau undercover vehicle with a non-functional EGR (exhaust gas recirculation) valve.

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

DATED: November 7, 2014 Patrick Dorais

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

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