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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. 79/15-81

13 **RICK RODRIGUEZ**  
3981 Fruitridge Road  
14 Sacramento, California 95820

**ACCUSATION**

15 **Smog Check Inspector (EO)**  
**License No. 150055 (formerly Advanced**  
16 **Emission Specialist Technician License No.**  
**150055)**

(SMOG CHECK)

17 Respondent.

18  
19 Patrick Dorais ("Complainant") alleges:

20 **PARTIES**

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

23 2. At a date unknown in 2004, the Bureau issued Advanced Emission Specialist (EA)  
24 Technician License No. 150055 to Rick Rodriguez ("Respondent"). On or about October 31,  
25 2012, the advanced emission specialist (EA) technician license expired. Effective November 1,

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1 2012, said license was renewed as Smog Check Inspector (EO) License No. 150055 pursuant to  
2 Respondent's election.<sup>1</sup> The smog check inspector (EO) license expired on January 15, 2013, and  
3 on or about January 16, 2013, the Bureau denied renewal.

#### 4 JURISDICTION

5 3. Health and Safety Code section 44002 provides, in pertinent part, that the Director  
6 has all the powers and authority granted under the Automotive Repair Act for enforcing the  
7 Motor Vehicle Inspection Program.

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

12 5. Health and Safety Code section 44072.8 states that, "When a license has been  
13 revoked or suspended following a hearing under this article, any additional license issued under  
14 this chapter in the name of the licensee may be likewise revoked or suspended by the director."

15 6. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
16 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
17 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
18 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

#### 19 STATUTORY PROVISIONS

20 7. Health and Safety Code section 44050 provides, in pertinent part:

21 (a) In addition to or in lieu of any other remedy or penalty, including, but not  
22 limited to, education, training, or an office conference, the department may issue a  
23 citation to a licensee, contractor, or fleet owner for a violation of the requirements of  
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25 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
26 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
27 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
28 Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 this chapter or a regulation adopted pursuant to this chapter. The citation may  
2 contain an order of abatement or the assessment of an administrative fine, or both.

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

6 8. Business and Professions Code section 477 provides, in pertinent part, that "Board"  
7 includes "bureau," "commission," "committee," "department," "division," "examining committee,"  
8 "program," and "agency." "License" includes certificate, registration or other means to engage in  
9 a business or profession regulated by the Code.

#### 10 COST RECOVERY

11 9. Business and Professions Code section 125.3 provides, in pertinent part, that a Board  
12 may request the administrative law judge to direct a licentiate found to have committed a  
13 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
14 investigation and enforcement of the case.

#### 15 FIRST CAUSE FOR DISCIPLINE

16 (Failure to Pay Administrative Fine)

17 10. Respondent is subject to discipline pursuant to Health and Safety Code  
18 section 44050(e), in that on or about November 29, 2012, the Bureau issued Citation No. M2013-  
19 0351 to Respondent against his Advanced Emission Specialist Technician license for violations  
20 of Health and Safety Code section 44032 (qualified technicians shall perform tests of emission  
21 control systems and devices in accordance with Health and Safety Code section 44012). On  
22 January 10, 2013, the Bureau personally served Respondent with the citation. The Bureau  
23 assessed an administrative fine in the amount of \$500. Respondent failed to file a timely appeal  
24 and the citation was deemed final on February 10, 2013. Respondent has yet to pay the  
25 administrative fine for this citation.

#### 26 SECOND CAUSE FOR DISCIPLINE

27 (Failure to Complete Training)

28 11. Respondent is subject to discipline pursuant to Health and Safety Code section  
44045.6(c), in that on or about November 29, 2012, the Bureau issued Citation No. M2013-0351

1 to Respondent against his Advanced Emission Specialist Technician license for violations of  
2 Health and Safety Code section 44032 (qualified technicians shall perform tests of emission  
3 control systems and devices in accordance with Health and Safety Code section 44012). On  
4 January 10, 2013, the Bureau personally served Respondent with the citation, which required  
5 Respondent to complete an eight hour training course. Respondent failed to file a timely appeal  
6 and the citation was deemed final on February 10, 2013. Respondent has yet to submit proof of  
7 completion of remedial training prescribed by the citation.

8 **OTHER MATTERS**

9 12. Under Health and Safety Code section 44072.8, if the Smog Check Inspector (EO)  
10 License No. 150055 issued to Rick Rodriguez, is revoked or suspended, any additional license  
11 issued under this chapter in the name of Rick Rodriguez may likewise be revoked or suspended.

12 **PRAYER**

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

- 15 1. Revoking or suspending Smog Check Inspector (EO) License No. 150055, formerly  
16 Advanced Emission Specialist Technician License No. 150055, issued to Rick Rodriguez;  
17 2. Revoking or suspending any additional license issued under Chapter 5 of the Health  
18 and Safety Code in the name of Rick Rodriguez;  
19 3. Ordering Rick Rodriguez, to pay the Bureau of Automotive Repair the reasonable  
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
21 Code section 125.3; and,  
22 4. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: December 1, 2014

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

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