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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. 79/15-69

**JOSH MARK O'CONNELL
121 Olive Ct.
Lodi, CA 95205**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Advanced Emission Specialist Technician
License No. EO 155202 (formerly Advanced
Emissions Specialist Technician No. EA
155202)**

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, State of California, filed Accusation No. 79/15-69 against Josh Mark O'Connell (Respondent) before the Director of the Department of Consumer Affairs. (Accusation attached as Exhibit A.)

1 2. In or about 2008, the Bureau of Automotive Repair (Bureau) issued Advanced
2 Emission Specialist Technician License No. EA 155202 to Respondent. Respondent's Advanced
3 Emission Specialist Technician License expired on November 30, 2013, however was canceled
4 on December 4, 2013. Pursuant to California Code of Regulations, title 16, section 3340.25,
5 subdivision (e), said license was renewed pursuant to Respondent's election as Smog Check
6 Inspector License No. EO 155202, effective December 4, 2013. The Smog Check Inspector
7 License was in full force and effect at all times relevant to the charges brought in Accusation No.
8 79/15-69 and will expire on November 30, 2015, unless renewed. ¹

9 3. On or about November 13, 2014, Respondent was served by Certified Mail and
10 United States First Class Mail with copies of the Accusation No. 79/15-69, Statement to
11 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
12 Code sections 11507.5, 11507.6, and 11507.7) and Disciplinary Guidelines at Respondent's
13 address of record which, pursuant to Business and Professions Code section 136, is required to be
14 reported and maintained with the Bureau. Respondent's address of record was and is: 121 Olive
15 Ct., Lodi, CA 95205.

16 4. Service of the Accusation was effective as a matter of law under the provisions of
17 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
18 124.

19 5. On or about November 24, 2014, the United States Postal Service returned the
20 Return Receipt for the Certified Mail referred to in Paragraph 3 signed by Respondent. The First
21 Class United States Mail referred to in Paragraph 3 was not returned by the United States Postal
22 Service.

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25 ¹ 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.

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
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5 P.O. Box 944255
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6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 Attorneys for Complainant

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. 79/15-69

13 **JOSH MARK O'CONNELL**
14 121 Olive Ct.
Lodi, CA 95205
15
16 Smog Check Inspector License No. EO
155202 (formerly Advanced Emissions
Specialist Technician No. EA 155202)

ACCUSATION
(SMOG CHECK)

17 Respondent.

19 Patrick Dorais ("Complainant") alleges:

20 **PARTIES**

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

23 2. In 2008, the Bureau issued Advanced Emission Specialist Technician License
24 Number EA 155202 to Josh Mark O'Connell ("Respondent"). Respondent's license expired on
25 November 30, 2013. The license was renewed on December 4, 2013, pursuant to California Code
26 of Regulations, title 16, section 3340.28, subdivision (e), upon Respondent's election as a Smog
27

1 Check Inspector (EO) License No. 155202¹. The license will expire on November 30, 2015,
2 unless renewed.

3 **STATUTORY PROVISIONS**

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

7 4. Section 44050 of the Health and Safety Code states, in pertinent part:

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

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

13 5. Section 44055 of the Health and Safety Code, subdivision (b) states:

14 (b) The department may deny an application for the renewal of a test
15 station or repair station license if the applicant, or any partner, officer, or director
thereof, has failed to pay any civil penalty or administrative fine in accordance with
16 this article.

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

21 7. Section 44072.8 of the Health and Safety Code states:

22 When a license has been revoked or suspended following a hearing under
23 this article, any additional license issued under this chapter in the name of the
licensee may be likewise revoked or suspended by the director.

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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.

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3. Ordering Josh Mark O'Connell to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

SA2014117639
Revised Accusation.docx