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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:  
  
**JOSEPH G. CHIPMAN**  
1040 Olympic Lane  
Seaside, CA 93955  
  
Smog Check Inspector License No. EO  
29988  
Smog Check Repair Technician License EI  
29988  
  
Respondent.

Case No. 79/15-30

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 29, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-30 against Joseph G. Chipman (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. In or about 1996 the Bureau of Automotive Repair issued Basic Area Technician License Number EB 29988 to Joseph G. Chipman (Respondent). Respondent's Basic Area Technician License was due to expire on September 30, 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subsection (e), the license was renewed, pursuant to

1 Respondent's election, as Smog Check Inspector License Number License No. EO 29988 and  
2 Smog Check Repair Technician License EI 29988<sup>1</sup>. The Smog Check Inspector (EO) License  
3 was due to expire on September 30, 2014, however it was suspended on April 23, 2013. The  
4 Smog Check Repair Technician (EI) License expired on September 30, 2014, and has not been  
5 renewed.

6 3. On or about September 3, 2014, Respondent was served by Certified and First Class  
7 Mail copies of the Accusation No. 79/15-30, Statement to Respondent, Notice of Defense,  
8 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
9 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
10 Code section 136, is required to be reported and maintained with the Bureau. Respondent's  
11 address of record was and is:

12 1040 Olympic Lane  
13 Seaside, CA 93955.

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

17 5. Government Code section 11506 states, in pertinent part:

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

23 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
25 79/15-30.

26 7. California Government Code section 11520 states, in pertinent part:

27 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,  
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 (a) If the respondent either fails to file a notice of defense or to appear at the  
2 hearing, the agency may take action based upon the respondent's express admissions  
3 or upon other evidence and affidavits may be used as evidence without any notice to  
4 respondent.

5 8. Pursuant to its authority under Government Code section 11520, the Director after  
6 having reviewed the proof of service dated September 3, 2014, signed by Joan Randolph and the  
7 USPS certified mail return receipt finds Respondent is in default. The Director will take action  
8 without further hearing and, based on Accusation, No. 79/15-30, proof of service and on the  
9 Affidavit of Bureau Representative Joseph Cheung, finds that the allegations in Accusation are  
10 true.

#### 11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Joseph G. Chipman has  
13 subjected his Smog Check Inspector License No. EO 29988 and his Smog Check Repair  
14 Technician License EI 29988 to discipline.

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

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

20 a. Respondent is subject to disciplinary action under section 44050, subsection (e) of the  
21 Health and Safety Code in that Respondent failed to comply with a citation fine and order of  
22 abatement. On or about January 15, 2013, Respondent was issued Citation No. M2013-0502.

23 The Citation ordered Respondent to pay a \$500 fine and attend a 28 hour certified training course.  
24 Respondent failed to appeal the citation which became a final order. Respondent failed to pay the  
25 fine. Respondent failed to take a 28 hour training course.

26 b. Respondent is subject to disciplinary action under section 44045.6 subsection (c) of  
27 the Health and Safety Code in conjunction with California Code of Regulations, title 16, section  
28 3340.24, California Code of Regulations, title 16, section 3340.24, and Health and Safety Code  
section 44072.2 in that Respondent failed to complete a training course that was ordered by the

1 Department. On or about January 15, 2013, Respondent was issued Citation No. M2013-0502.  
2 The Citation ordered Respondent to pay a \$500 fine and attend a 28 hour certified training course.  
3 Respondent failed to appeal the citation which became a final order. Respondent failed to take a  
4 28 hour training course.

5 ORDER

6 IT IS SO ORDERED that Smog Check Inspector License No. EO 29988, heretofore issued  
7 to Respondent Joseph G. Chipman, is revoked.

8 IT IS SO ORDERED that Smog Check Repair Technician License EI 29988, heretofore  
9 issued to Respondent Joseph G. Chipman, is revoked.

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

16 This Decision shall become effective on February 24, 2015

17 It is so ORDERED January 5, 2015

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TAMARA COLSON  
21 Assistant General Counsel  
22 Department of Consumer Affairs

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26 Attachment:  
27 Exhibit A: Accusation  
28

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUSTIN R. SURBER  
Deputy Attorney General  
4 State Bar No. 226937  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 355-5437  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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

10

11 In the Matter of the Accusation Against:

Case No. 79/15-30

12 **JOSEPH G. CHIPMAN**  
13 1040 Olympic Lane  
Seaside, CA 93955

**ACCUSATION**  
**(SMOG CHECK)**

14 Smog Check Inspector License No. EO  
29988  
15 Smog Check Repair Technician License EI  
29988

16

Respondent.

17

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19 Complainant alleges:

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**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. In or about 1996 the Bureau of Automotive Repair issued Basic Area Technician  
24 License Number EB 29988 to Joseph G. Chipman (Respondent). Respondent's Basic Area  
25 Technician License was due to expire on September 30, 2012. Pursuant to California Code of  
26 Regulations, title 16, section 3340.28, subsection (e), the license was renewed, pursuant to  
27 Respondent's election, as Smog Check Inspector License Number License No. EO 29988 and  
28

28

1 Smog Check Repair Technician License EI 29988<sup>1</sup>. The Smog Check Inspector (EO) License is  
2 due to expire on September 30, 2014, however it was suspended on April 23, 2013. The Smog  
3 Check Repair Technician (EI) License is due to expire on September 30, 2014, unless renewed.

4 **JURISDICTION**

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

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

10 5. Section 44045.6 of the Health and Safety Code states:

11 “. . . (c) The department may require remedial training at a certified training facility or may  
12 take disciplinary action, whichever the department determines to be the most appropriate, for any  
13 licensed technician who the department determines cannot perform inspections, testing, or repairs  
14 as required under the program. The failure to complete the remedial training when required by the  
15 department shall be a ground for revocation or suspension of a smog check technician's license  
16 under Section 44072.2.

17 . . .”

18 6. Section 44050, subsection (e), of the Health and Safety Code states:

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

22 7. Section 44072.2 of the Health and Safety Code states:

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

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

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...  
"(c) Violates any of the regulations adopted by the director pursuant to this chapter.

...  
"(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed."

8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

9. California Code of Regulations, title 16, section 3340.24, states:

"(a) Any disciplinary or reinstatement proceeding under this article involving licensed stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5 (commencing with section 11500) of division 3, Title 2 of the Government Code.

"(b) The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee knowingly and willfully resists, delays, or obstructs any employee of the bureau or any employee of the quality assurance contractor of the bureau in carrying out the lawful performance of his or her duties.

"(c) The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.

"(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."

10. California Code of Regulations, title 16, section 3340.31, states:

"(a) Licensed inspectors or repair technicians receiving citations pursuant to subdivision (b) of Section 44050 of the Health and Safety Code, or found lacking in skills pursuant to subdivision

1 (b) of Section 44031.5 of the Health and Safety Code, or found lacking in skills pursuant to  
2 subdivision (c) of Section 44045.6 of the Health and Safety Code, shall be required to undergo  
3 retraining at institutions and by instructors certified by the bureau pursuant to Sections 44030.5  
4 and 44045.6 of the Health and Safety Code.

5 “(b) Failure by a licensed inspector or repair technician to complete retraining when  
6 required by the department shall be grounds for revocation or suspension of the license, pursuant  
7 to section 44045.6 of the Health and Safety Code.”

#### 8 COSTS

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

#### 13 FIRST CAUSE FOR DISCIPLINE

##### 14 (Failure to Comply with Citation)

15 12. Respondent is subject to disciplinary action under section 44050, subsection (e) of the  
16 Health and Safety Code in that Respondent failed to comply with a citation fine and order of  
17 abatement. On or about January 15, 2013, Respondent was issued Citation No. M2013-0502.  
18 The Citation ordered Respondent to pay a \$500 fine and attend a 28 hour certified training course.  
19 Respondent failed to appeal the citation which became a final order. Respondent failed to pay  
20 the fine. Respondent failed to take a 28 hour training course.

#### 21 SECOND CAUSE FOR DISCIPLINE

##### 22 (Failure to Complete Training )

23 13. Respondent is subject to disciplinary action under section 44045.6 subsection (c) of  
24 the Health and Safety Code in conjunction with California Code of Regulations, title 16, section  
25 3340.24, California Code of Regulations, title 16, section 3340.24, and Health and Safety Code  
26 section 44072.2 in that Respondent failed to complete a training course that was ordered by the  
27 Department. On or about January 15, 2013, Respondent was issued Citation No. M2013-0502.  
28 The Citation ordered Respondent to pay a \$500 fine and attend a 28 hour certified training course.

1 Respondent failed to appeal the citation which became a final order. Respondent failed to take a  
2 28 hour training course.

3 **OTHER MATTERS**

4 14. Pursuant to Health & Saf. Code section 44072.8, if Respondent's Smog Check  
5 Inspector License or Smog Check Repair Technician License is revoked or suspended, any  
6 additional license issued under this chapter in the name of said licensee may be likewise revoked  
7 or suspended by the director.

8 **PRAYER**

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

11 1. Revoking or suspending Smog Check Inspector License Number EO 29988, issued to  
12 Joseph G. Chipman;

13 2. Revoking or suspending Smog Check Repair Technician License EI 29988, issued to  
14 Joseph G. Chipman;

15 3. Revoking or suspending any additional license issued under Chapter 5 of the Health  
16 and Safety Code in the name of Joseph G. Chipman;

17 4. Ordering Joseph G. Chipman to pay the Bureau of Automotive Repair the reasonable  
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
19 section 125.3;

20 5. Taking such other and further action as deemed necessary and proper.  
21

22  
23 DATED: August 29, 2014



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