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

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

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

(SMOG CHECK)

16 Respondent.
17

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. 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

1 Smog Check Repair Technician License EI 29988¹. 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 ¹ 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.
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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