

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ROY'S AUTO REPAIR
ROY LEE VESSELS, OWNER
6717 Auburn Boulevard
Citrus Heights, CA 95621
Automotive Repair Dealer Registration
No. ARD 148013
Smog Check Test Only Station License
No. RC 148013

and

ROY LEE VESSELS
7879 Dracena Drive
Citrus Heights, CA 95610
Advanced Emission Specialist
Technician License No. EA 306614
(to be redesignated upon renewal as
EO 306614 and/or EI 306614)

Respondent.

Case No. 79/14-02

OAH No. 2013080351

DECISION

The attached Stipulated Revocation of Licenses and Order (Smog Check Test Only Station and Advanced Emission Specialist Technician Licenses Only) is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to Smog Check Test Only Station License No. RC 148013 and Advanced Emission Specialist Technician License No. EA 306614 (to be redesignated upon renewal as EO 306614 and/or EI 306614).

This Decision shall become effective

June 3, 2014

DATED: May 13, 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
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:

Case No. 79/14-02

13 **ROY'S AUTO REPAIR**
ROY LEE VESSELS, OWNER
14 6717 Auburn Boulevard
Citrus Heights, California 95621
15 **Automotive Repair Dealer Registration**
No. ARD 148013
16 **Smog Check Test Only Station License**
No. RC 148013

OAH No. 2013080351

STIPULATED REVOCATION OF
LICENSES AND ORDER
(Smog Check Test Only Station and
Advanced Emission Specialist Technician
Licenses Only)

17 and

18 **ROY LEE VESSELS**
19 7879 Dracena Drive
Citrus Heights, California 95610
20 **Advanced Emission Specialist Technician**
License No. EA 306614
21 **(to be redesignated upon renewal as**
EO 306614 and/or E1 306614)

22 Respondent.
23

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
26 entitled proceedings that the following matters are true:
27
28

1 **PARTIES**

2 1. Patrick Dorais (“Complainant”) is the Chief of the Bureau of Automotive Repair
3 (“Bureau”). He is represented in this matter by Kamala D. Harris, Attorney General of the State
4 of California, by Stephanie Alamo-Latif, Deputy Attorney General. John Wallauch, former Chief
5 of the Bureau, brought this action solely in his official capacity.

6 2. Roy Lee Vessels (“Respondent”) is representing himself in this proceeding and has
7 chosen not to exercise his right to be represented by counsel.

8 **Automotive Repair Dealer Registration**

9 3. On or about July 7, 1989, the Bureau issued Automotive Repair Dealer Registration
10 Number ARD 148013 to Respondent, owner of Roy's Auto Repair. The Automotive Repair
11 Dealer Registration was suspended on November 28, 2011; it was due to expire on July 31, 2012.

12 **Smog Check Test Only Station License**

13 4. On or about February 9, 1993, the Bureau issued Smog Check Test Only Station
14 License Number RC 148013 to Respondent, owner of Roy's Auto Repair. The station license
15 expired on July 31, 2010.

16 **Advanced Emission Specialist Technician License**

17 5. On a date uncertain in 1997, the Bureau issued Advanced Emission Specialist
18 Technician License Number EA 306614 to Respondent. The technician license was suspended
19 on September 21, 2010; it was due to expire on June 30, 2011. If renewed, the license will be
20 redesignated upon renewal as EO 306614 and/or E1 306614¹.

21 **JURISDICTION**

22 6. Accusation No. 79/14-02 was filed before the Director of Consumer Affairs
23 (“Director”), for the Bureau of Automotive Repair (“Bureau”), and is currently pending against
24 Respondent. The Accusation and all other statutorily required documents were properly served
25 on Respondent on July 16, 2013. Respondent timely filed its Notice of Defense contesting the
26

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 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/or Smog Check Repair Technician (E1) license.

1 Accusation. A copy of Accusation No. 79/14-02 is attached as Exhibit A and incorporated by
2 reference.

3 **ADVISEMENT AND WAIVERS**

4 7. Respondent has carefully read, and understands the charges and allegations in
5 Accusation No. 79/14-02. Respondent also has carefully read, and understands the effects of this
6 Stipulated Revocation of Licenses and Order.

7 8. Respondent is fully aware of his legal rights in this matter, including the right to a
8 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
9 his own expense; the right to confront and cross-examine the witnesses against him; the right to
10 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
11 the attendance of witnesses and the production of documents; the right to reconsideration and
12 court review of an adverse decision; and all other rights accorded by the California
13 Administrative Procedure Act and other applicable laws.

14 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
15 every right set forth above.

16 **CULPABILITY**

17 10. Respondent admits the truth of each and every charge and allegation in Accusation
18 No. 79/14-02, agrees that cause exists for discipline and hereby stipulates to the revocation of his
19 Smog Check Test Only Station License and Advanced Emission Specialist Technician License
20 for the Bureau's formal acceptance.

21 11. Respondent understands that by signing this stipulation enables the Director to issue
22 his order accepting the revocation of his Smog Check Test Only Station License and Advanced
23 Emission Specialist Technician License without further process.

24 **CONTINGENCY**

25 12. This stipulation shall be subject to approval by the Director or the Director's designee.
26 Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of
27 Automotive Repair may communicate directly with the Director and staff regarding this
28 stipulation and surrender, without notice to or participation by Respondent. By signing the

1 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
2 to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
3 fails to adopt this stipulation as the Decision and Order, the Stipulated Surrender and Disciplinary
4 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
5 action between the parties, and the Director shall not be disqualified from further action by
6 having considered this matter.

7 13. The parties understand and agree that Portable Document Format (PDF), facsimile,
8 and/or copies of this Stipulated Surrender of License and Order, including Portable Document
9 Format (PDF), facsimile, and/or copies signatures thereto, shall have the same force and effect as
10 the originals.

11 14. This Stipulated Revocation of Licenses and Order is intended by the parties to be an
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
14 negotiations, and commitments (written or oral). This Stipulated Revocation of Licenses and
15 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
16 writing executed by an authorized representative of each of the parties.

17 15. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Director may, without further notice or formal proceeding, issue and enter the following
19 Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Smog Check Test Only Station License Number RC
22 148013, issued to Respondent, owner of Roy's Auto Repair, and Advanced Emission Specialist
23 Technician License No. EA 306614 issued to Respondent, are hereby revoked and accepted by
24 the Director of Consumer Affairs.

25 1. This stipulation constitutes a record of the discipline and shall become a part of
26 Respondent's license history with the Bureau of Automotive Repair.

1 Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Director of Consumer Affairs.

3
4 DATED:

4-6-14



ROY LEE VESSELS, OWNER OF ROY'S AUTO
REPAIR
Respondent

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9 ENDORSEMENT

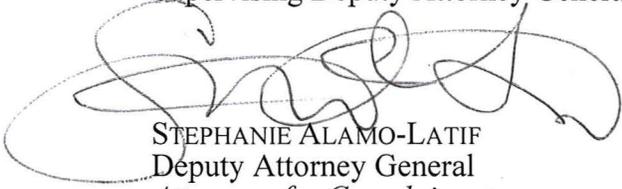
10 The foregoing Stipulated Revocation of Licenses and Order is hereby respectfully
11 submitted for consideration by the Director of Consumer Affairs.

12 Dated:

4/9/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



STEPHANIE ALAMO-LATIF
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/14-02

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
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11 In the Matter of the Accusation Against:

Case No. 79/14-02

12 **ROY'S AUTO REPAIR**
13 **ROY LEE VESSELS, OWNER**
6717 Auburn Boulevard
Citrus Heights, California 95621
14 **Automotive Repair Dealer Registration**
No. ARD 148013
15 **Smog Check Test Only Station License**
No. RC 148013

ACCUSATION

(SMOG CHECK)

16 and

17 **ROY LEE VESSELS**
18 7879 Dracena Drive
Citrus Heights, California 95610
19 **Advanced Emission Specialist Technician**
License No. EA 306614
20 **(to be redesignated upon renewal as**
EO 306614 and/or E1 306614)

21 Respondent.

22
23 John Wallauch ("Complainant") alleges:

24 **PARTIES**

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

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Automotive Repair Dealer Registration

2. On or about July 7, 1989, the Bureau issued Automotive Repair Dealer Registration Number ARD 148013 to Roy Lee Vessels ("Respondent"), as owner of Roy's Auto Repair. The automotive repair dealer registration was suspended on November 28, 2011; it was due to expire on July 31, 2012.

Smog Check Test Only Station License

3. On or about February 9, 1993, the Bureau issued Smog Check Test Only Station License Number RC 148013 ("station license") to Respondent. The station license expired on July 31, 2010.

Advanced Emission Specialist Technician License

4. On a date uncertain in 1997, the Bureau issued Advanced Emission Specialist Technician License Number EA 306614 ("technician license") to Respondent. The technician license was suspended on September 21, 2010; it was due to expire on June 30, 2011. If renewed, the license will be redesignated upon renewal as EO 306614 and/or E1 306614.¹

JURISDICTION

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

6. Health and Safety Code section 44072.6 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 disciplinary action.

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

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 (E1) license.

1 8. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
2 “[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
3 Specialist Technician license issued prior to the effective date of this regulation, the license may
4 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.”

5 STATUTORY PROVISIONS

6 9. Health and Safety Code section 44050 provides, in pertinent part:

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

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

15 10. Health and Safety Code section 44055, subdivision (b), states:

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

19 11. Health and Safety Code section 44045.6, subdivision (c), states:

20 The department may require remedial training at a certified training facility or
21 may take disciplinary action, whichever the department determines to be the most
22 appropriate, for any licensed technician who the department determines cannot
23 perform inspections, testing, or repairs as required under the program. The failure to
24 complete the remedial training when required by the department shall be a ground
25 for revocation or suspension of a smog check technician's license under Section
26 44072.2.

27 12. Business and Professions Code section 477 provides, in pertinent part, that “Board”
28 includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
“program,” and “agency.” “License” includes certificate, registration or other means to engage in
a business or profession regulated by the Code.

29 COST RECOVERY

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Pay Administrative Fine)**

3 14. Respondent's station license is subject to discipline pursuant to Health and Safety
4 Code section 44050, subdivision (e), in that on or about May 28, 2010, the Bureau issued Citation
5 No. C2010-1213 to Respondent against his station license for violations of Health and Safety
6 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
7 control devices), and California Code of Regulations, title 16, section 3340.35, subdivision (e)
8 (issuing a certificate of compliance to a vehicle improperly tested). On July 15, 2010, the Bureau
9 personally served Respondent with the citation. The Bureau assessed an administrative fine in the
10 amount of \$1,500. Respondent failed to file a timely appeal and the citation became effective on
11 August 15, 2010. Respondent has yet to pay the administrative fine for this citation.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Complete Training)**

14 15. Respondent's technician license is subject to discipline pursuant to Health and Safety
15 Code section 44045.6, subdivision (c), in that on or about May 28, 2010, the Bureau issued
16 Citation No. M2010-1214 to Respondent against his technician license for violations of Health
17 and Safety Code section 44032, (qualified technicians shall perform tests of emission control
18 systems and devices in accordance with Health and Safety Code section 44012) and California
19 Code of Regulations, title 16 "(Regulations)", section 3340.30, subdivision (a) (qualified
20 technicians shall inspect, test, and repair vehicles in accordance with Health and Safety Code
21 sections 44012 and 44035, and Regulation section 3340.42). On July 15, 2010, the Bureau
22 personally served Respondent with the citation, which required Respondent to complete a 16-hour
23 training course. Respondent failed to file a timely appeal and the citation was deemed final on
24 August 15, 2010. Respondent has yet to submit proof of completion of remedial training
25 prescribed by the citation.

26 **OTHER MATTERS**

27 16. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
28 Number RC 148013, issued to Roy Lee Vessels, owner of Roy's Auto Repair is revoked or

1 suspended, any additional license issued under this chapter in the name of Roy Lee Vessels may
2 be likewise revoked or suspended by the Director.

3 17. Pursuant to Health and Safety Code section 44072.8, if the Advanced Emission
4 Specialist Technician License issued to Roy Lee Vessels, currently designated as EA 306614, but
5 upon renewal will be redesignated as EO 306614 and/or EI 306614, 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 Station License Number RC 148013, issued to
12 Roy Lee Vessels, owner of Roy's Auto Repair;

13 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
14 and Safety Code in the name of Roy Lee Vessels;

15 3. Revoking or suspending the Advanced Emission Specialist Technician License issued
16 to Roy Lee Vessels, License Number EA 306614, and if renewed, redesignated License Number
17 EO 306614 and/or EI-306614;

18 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
19 and Safety Code in the name of Roy Lee Vessels;

20 5. Ordering Roy Lee Vessels, to pay the Bureau of Automotive Repair the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3; and,

23 6. Taking such other and further action as deemed necessary and proper.

24
25 DATED: July 3, 2013



26 **JOHN WALLAUCH**
27 Chief

Bureau of Automotive Repair - (I/M Smog)
Department of Consumer Affairs
State of California
Complainant

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