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

12 In the Matter of the Accusation Against:

Case No. **79/13-30**

13 **SOUTH HARBOR SMOG TEST ONLY CENTER,**
14 **DAVID STEPHEN BARROS, Owner**
904 South Harbor Blvd.
Santa Ana, CA 92704

A C C U S A T I O N

(Smog Check)

15 Automotive Repair Dealer Reg. No. ARD 256815
16 Smog Check Station License No. TC 256815

17 and

18 **DAVID STEPHEN BARROS**
13722 McMains Street
19 Garden Grove, CA 92844-2730

20 Advanced Emission Specialist Technician License No.
21 EA079715

Respondent.

23 Complainant alleges:

24 **PARTIES**

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

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Automotive Repair Dealer Registration

2. On or about December 3, 2008, the Bureau issued Automotive Repair Dealer Registration Number ARD 256815 (registration) to David Stephen Barros (Respondent), doing business as South Harbor Smog Test Only Center. The Automotive Repair Dealer Registration was due to expire on November 30, 2010, however, was cancelled on September 9, 2010.

Smog Check Test Only Station License

3. On or about December 15, 2008, the Bureau issued Smog Check Station License Number TC 256815 (station license) to Respondent. The station license was due to expire on November 30, 2010, however, was cancelled on September 9, 2010.

Advanced Emission Specialist Technician License

4. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist Technician License Number 079715 (technician license) to Respondent. The technician license was due to expire on May 31, 2012, however, was suspended on May 11, 2011.

JURISDICTION

5. Section 44002 of the Health and Safety Code 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. 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 disciplinary action.

STATUTORY PROVISIONS

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

(a) In addition to or in lieu of any other remedy or penalty, including, but not limited to, education, training, or an office conference, the department may issue 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.

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

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

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

9 9. Section 44072.8 of the Health and Safety Code states:

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

13 **COST RECOVERY**

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

18 **FIRST CAUSE FOR DISCIPLINE**

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

20 11. Respondent has subjected his station license to discipline pursuant to Health and
21 Safety Code section 44050, subdivision (e), in that on or about February 16, 2010, the Bureau
22 issued Citation No. C2010-0827 to Respondent against his station license for violations of Health
23 and Safety Code section 44012, subdivision (f), failure to perform a visual/functional check of
24 emission control devices and California Code of Regulations, title 16, (Regulation), section
25 3340.35, subdivision (c), issuing a certificate of compliance to a vehicle improperly tested. On
26 March 3, 2010, the Bureau served Respondent with the citation. The Bureau assessed an
27 administrative fine in the amount of \$1,000.00. On March 23, 2010, Respondent appealed this
28 citation, but withdrew his appeal on October 21, 2010. Respondent has not paid the
administrative fine for this citation.

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2. Revoking or suspending Advanced Emission Specialist Technician License
Number EA 079715, issued to David Stephen Barros;

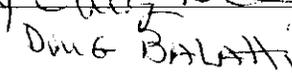
3. Revoking or suspending any additional license issued under Chapter 5 of the
Health and Safety Code in the name of David Stephen Barros;

4. Ordering David Stephen Barros 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,

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

DATED: November 30, 2012

John Wallauch by Doug Balatti



JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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