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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. 77/13-74

**M D SERVICE
MICHELE N. SHUTZ, OWNER
16158 K Street
Mojave, CA 93501**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Automotive Repair Dealer Reg. No. ARD 263557

Respondent.

FINDINGS OF FACT

1. On or about June 13, 2013, Complainant John Wallauch, in his former official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/13-74 (Accusation) against M D SERVICE; MICHELE N. SHUTZ, OWNER (Respondent) and before the Director of Consumer Affairs. (Accusation attached as Exhibit A)

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1 **Automotive Repair Dealer Registration No. ARD 263557**

2 2. On or about October 29, 2010, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 263557 (registration) to Respondent, doing business as M D Service.
4 The registration, which was in full force and effect at all times relevant to the charges brought
5 herein, expired on October 31, 2012, has not been renewed, and is now delinquent.

6 3.. On or about June 17, 2013, Respondent was served by Certified and First Class Mail
7 a copy of Accusation No. 77/13-74, Statement to Respondent, Notice of Defense, Request for
8 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
9 Respondent's addresses of record which, pursuant to Business and Professions Code section 136,
10 is required to be reported and maintained with the Bureau. Respondent's address of record was
11 and is: 16158 K Street, Mojave, CA 93501.

12 6. Service of the Accusation on Respondent was effective as a matter of law under the
13 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
14 Code section 124.

15 7. Government Code section 11506 states, in pertinent part:

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

21 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and has therefore waived her right to a hearing on the merits of the Accusation.

23 9. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions
26 or upon other evidence and affidavits may be used as evidence without any notice to
27 respondent.

28 10. Pursuant to its authority under Government Code section 11520, the Director after
having reviewed the proof of service dated June 17, 2013 signed by Thurman Peden, (along with
the attached return envelope and USPS Track & Confirm Notice) finds Respondent is in default.
The Director will take action without further hearing and, based on Accusation No. 77/13-74,

1 proof of service (and related USPS tracking documentary evidence in connection therewith), and
2 on the Affidavit of Bureau Representative Prakash Narayan, finds that the allegations in
3 Accusation are true.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent has subjected her registration to
6 discipline.

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

8 3. The Director of Consumer Affairs is authorized to permanently invalidate
9 Respondent's registration, based upon the following violations alleged in the Accusation, which
10 are supported by the evidence contained in the affidavit of Bureau Representative Prakash
11 Narayan in this case:

12 a. Untrue or Misleading Statements [pursuant to Code section 9884.7(a)(1)];
13 Fraud [pursuant to Code section 9884.7(a)(4)]; Failure to Comply With the Code [pursuant to
14 Code section 9884.7(a)(6)]; Violation of Regulation [pursuant to Code section
15 9884.7(a)(6), by failing to comply with California Code of Regulations sections 3353(e) and
16 3358(c)]; and False and Misleading Statements [pursuant to Code section 9884.7(a)(1)].

17 ORDER

18 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 263557,
19 heretofore issued to Respondent M D SERVICE; MICHELE N. SHUTZ, OWNER, is
20 permanently invalidated.

21 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
22 written motion requesting that the Decision be vacated and stating the grounds relied on within

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1 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
2 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
3 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
4 on a showing of good cause, as defined in the statute.

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6 This Decision shall become effective on March 11, 2014.

7 It is so ORDERED FEB 19 2014

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11 _____
12 DONALD CHANG
13 Assistant Chief Counsel
14 Department of Consumer Affairs

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
State Bar No. 131800
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 620-2558
Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

13 **M D SERVICE**
MICHELE N. SHUTZ, OWNER
14 16158 K Street
15 Mojave, CA 93501

16 Automotive Repair Dealer Reg. No. ARD 263557

17 Respondent.

Case No. 77/13-74

ACCUSATION

18
19 John Wallauch ("Complainant") alleges:

20 **PARTIES**

- 21 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
22 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
- 23 2. On or about October 29, 2010, the Bureau issued Automotive Repair Dealer
24 Registration Number ARD 263557 ("registration") to Michele N. Shutz, Owner ("Respondent"),
25 doing business as M D Service. The registration, which was in full force and effect at all times
26 relevant to the charges brought herein, expired on October 31, 2012, has not been renewed, and is
27 now delinquent.

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1 (3) Failing or refusing to give to a customer a copy of any document requiring his or
2 her signature, as soon as the customer signs the document.

3 (4) Any other conduct which constitutes fraud..

4
5 (6) Failure in any material respect to comply with the provisions of this chapter [the
6 Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations adopted
7 pursuant to it.

8 (7) Willful departure from or disregard of accepted trade standards for good and
9 workmanlike repair in any material respect, which is prejudicial to another without consent
10 of the owner or his or her duly authorized representative.

11 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
12 more than one place of business in this state, the director pursuant to subdivision (a) shall
13 only refuse to validate, or shall only invalidate temporarily or permanently the registration
14 of the specific place of business which has violated any of the provisions of this chapter.
15 This violation, or action by the director, shall not affect in any manner the right of the
16 automotive repair dealer to operate his or her other places of business.

17 (c) Notwithstanding subdivision (b), the director may refuse to validate, or may
18 invalidate temporarily or permanently, the registration for all places of business operated in
19 this state by an automotive repair dealer upon a finding that the automotive repair dealer
20 has, or is, engaged in a course of repeated and willful violations of this chapter, or
21 regulations adopted pursuant to it.

22 8. Bus. & Prof. Code section 9884.8 states, in pertinent part:

23 All work done by an automotive repair dealer, including all warranty work, shall
24 be recorded on an invoice and shall describe all service work done and parts
25 supplied. One copy of the invoice shall be given to the customer and one
26 copy shall be retained by the automotive repair dealer.

27 9. Bus. & Prof. Code section 9884.9, subdivision (a) states, in pertinent part:
28 The automotive repair dealer shall give to the customer a written estimated price for labor
and parts necessary for a specific job. No work shall be done and no charges shall accrue
before authorization to proceed is obtained from the customer. No charge shall be made
for work done or parts supplied in excess of the estimated price without the oral or
written consent of the customer that shall be obtained at some time after it is determined
that the estimated price is insufficient and before the work not estimated is done or the
parts not estimated are supplied. Written consent or authorization for an increase in the
original estimated price may be provided by electronic mail or facsimile transmission
from the customer. The bureau may specify in regulation the procedures to be followed
by an automotive repair dealer when an authorization or consent for an increase in the
original estimated price is provided by electronic mail or facsimile transmission. If that
consent is oral, the dealer shall make a notation on the work order of the date, time, name
of person authorizing the additional repairs and telephone number called, if any, together
with a specification of the additional parts and labor and the total additional cost.

REGULATORY PROVISIONS

10. California Code of Regulations section 3353 states in pertinent part:

No work for compensation shall be commenced and no charges shall accrue without specific authorization from the customer in accordance with the following requirements:

(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written estimated price for parts and labor for a specific job.

(c) Additional Authorization. Except as provided in subdivision (f), the dealer shall obtain the customers authorization before any additional work not estimated is done or parts not estimated are provided.

(e) Revising an Itemized Work Order. If the customer has authorized repairs according to a work order on which parts and labor are itemized, the dealer shall not change the method of repair or parts supplied without the written, oral, or electronic authorization of the customer.

11. California Code of Regulations section 3356 states in pertinent part:

(a) All invoices for services and repair work performed, and parts supplied, as provided for in Section 9884.8 of the Business and Professions Code, shall comply with the following:

(2) The invoice shall separately list, describe and identify all of the following:

(A) All service work and repair work performed, including all diagnostic and warranty work, and the price for each described service and repair.

(B) Each part supplied, in such a manner that the customer can understand what was purchased, and the price for each described part. The description of each part shall state whether the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part.

12. California Code of Regulations section 3371 states in pertinent part:

No dealer shall publish, utter, or make or cause to be published, uttered, or made any false or misleading statement or advertisement which is known to be false and misleading, or by which exercise of reasonable care should be known to be false and misleading.

13. California Code of Regulations section 3373 states in pertinent part:

No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.

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COST RECOVERY

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

CONSUMER COMPLAINT (SPROUL, BA20112231)

6
7 15. On or about January 30, 2011, consumer Heather Sproul ("Sproul") had her 1999
8 Chevrolet Suburban towed to Respondent's facility for a "crank over no start" condition.

9 16. On January 31, 2011, Respondent's employee, Danny Burgos ("Danny") agreed to
10 diagnose Sproul's vehicle and later advised her that the vehicle needed replacement of the fuel
11 pump assembly. Danny asked Sproul to purchase the fuel pump assembly from a nearby Napa
12 Auto Parts store. Sproul ordered the fuel pump assembly from Tehachapi Napa Auto Parts, who
13 said the part could be delivered to Respondent's facility. Sproul paid \$352.88 for the part and
14 authorized the parts store to deliver the part. Later that day, Sproul returned to M D Service and
15 spoke to Danny who told her the repairs were complete. Sproul paid Respondent \$217.00 and
16 received a copy of invoice number [REDACTED] dated January 31, 2011.

17 17. On or about February 7, 2011, Sproul's vehicle again cranked over, but would not
18 start. Sproul then had the vehicle towed to Sam Moore's Automotive ("Sam"). Sam later
19 recommended replacing the fuel pump assembly and asked Sproul to inspect the repairs
20 previously performed at M D Service. Sproul inspected the vehicle and found a universal type
21 fuel pump had been installed into the original fuel pump assembly and that two fuel vapor lines, a
22 fuel vapor valve, and the fuel pump supply line had been damaged, then repaired and secured
23 with hose clamps and a tie-strap. Sam photographed his findings, made hand written notes on
24 them and gave the photographs to Sproul. Sproul then authorized Sam to replace the fuel pump
25 assembly and received the pump that had been installed at M D Service from Sam.

26 18. On or about February 9, 2011, the Bureau received a complaint from Sproul against
27 M D Service.

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1 19. On or about February 14, 2011, Sam completed the repairs and Sproul paid him
2 \$595.53 and picked up the vehicle.

3 20. Upon investigation, a Bureau representative found that the fuel pump assembly had
4 not been replaced as invoiced. In fact, a universal type replacement pump had been installed on
5 the old assembly and two vapor lines, a vapor valve, and a fuel pump supply line had been
6 damaged, and then repaired. The investigation also showed that the Respondent had not retained
7 copies of the invoice or estimate for the repairs on Sproul's vehicle.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Untrue or Misleading Statements)

10 21. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
11 that on or about January 31, 2011, Respondent made statements which she knew, or which by
12 exercise of reasonable care should have known to be untrue or misleading, when she represented
13 to the consumer that the fuel pump assembly had been replaced on the 1999 Chevrolet Suburban
14 when in fact, a universal type replacement pump had been installed modifying the old assembly
15 and that two vapor lines, a vapor valve, and the fuel pump supply line, had been damaged in the
16 process and subsequently repaired.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Fraud)

19 22. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
20 that on or about January 31, 2011, Respondent committed acts constituting fraud by accepting
21 payment for installing a new fuel pump assembly on the consumer's vehicle, when in fact, only a
22 universal type replacement pump had been installed, modifying the original assembly.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Failure to Comply with the Code)

25 23. Respondent has subjected her registration to discipline pursuant to Business and
26 Professions Code section 9884.7, subdivision (a)(6), in that on January 31, 2011 Respondent
27 failed to comply with the following sections of that code:

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1 a) Section 9884.7, subdivision (a)(7): Respondent failed to follow accepted trade
2 standards when her employee installed a universal type fuel pump modifying the original fuel
3 pump assembly.

4 b) Section 9884.11: Respondent failed to maintain and provide access to, copies of
5 documents required by regulations adopted to carry out this chapter.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Violations of Regulation)**

8 24. Respondent has subjected her registration to discipline pursuant to Business and
9 Professions Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with:

10 a) California Code of Regulation (CCR) 3353, subdivision (e) in a material respect,
11 as follows: Respondent failed to receive authorization from the consumer for changing the
12 method of repair when her employee replaced the fuel pump on the 1999 Chevrolet Suburban
13 with a universal type fuel pump instead of with the complete fuel pump assembly the consumer
14 had provided.

15 b) CCR 3358, subdivision (c) in a material respect, as follows: Respondent failed to
16 maintain and provide access to invoices and estimates for repairs performed on the 1999
17 Chevrolet Suburban.

18 **UNDERCOVER OPERATION – JULY 28, 2011**

19 25. On July 28, 2011, a Bureau of Automotive Repair representative transported the
20 Bureau's undercover vehicle to Respondent's facility where it was left with a note on the
21 windshield indicating that the vehicle had "broke down". The undercover vehicle had been
22 previously documented as being in need of resetting the fuel shut-off inertia switch only. All
23 other fuel and ignition system components had been documented to be functioning correctly. The
24 note also provided a contact telephone number for a Bureau undercover operator (operator). Later
25 that day the operator received a call from Respondent's employee, Danny, who told the operator
26 he would diagnose the vehicle's crank over/no start problem and call back in a few hours. Danny
27 did not provide the operator with an estimate for diagnosing the crank over/no start problem.

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1 Later that day Danny phoned the operator and told him that the vehicle needed a fuel pump and
2 the total cost would be \$411.82. The operator later authorized the fuel pump replacement.

3 26. On July 29, 2011 the operator returned to the Respondent's facility, paid \$410.00,
4 signed and received Invoice [REDACTED] and left the facility.

5 27. On August 18, 2011 a Bureau representative re-inspected the undercover vehicle. He
6 found that the fuel pump had been replaced as invoiced. The only repair necessary was the
7 resetting of the fuel shut-off inertia switch.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 (False and Misleading Statements)

10 28. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
11 that on or about July 28, 2011, Respondent's employee made statements which he knew, or which
12 by exercise of reasonable care should have known to be untrue or misleading, when he told the
13 undercover operator that the undercover vehicle needed replacement of the fuel pump, when in
14 fact the fuel pump was new and in good serviceable condition and the only repair that was
15 necessary was to reset the fuel shut-off inertia switch.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 (Fraud)

18 29. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
19 that on or about July 28, 2011, Respondent made a false and misleading representation to the
20 operator regarding the condition of the fuel pump on the undercover vehicle as set forth in
21 paragraphs 25-27 above, and accepted payment for the replacement of the fuel pump when the
22 only repair necessary was the resetting of the fuel shut-off inertia switch.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 (Failure to Comply with the Code)

25 30. Respondent has subjected his registration to discipline pursuant to Business and
26 Professions Code section 9884.7, subdivision (a)(6), in that on July 28, 2011, regarding the
27 undercover vehicle, Respondent failed to comply with the following sections of that code:

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1 a) Section 9884.9, subdivision (a): Respondent failed to provide the undercover
2 operator with a written estimated price for parts and labor for a specific job when her facility
3 diagnosed the crank over no start condition on the undercover vehicle.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 (Violations of Regulation)

6 31. Respondent has subjected her registration to discipline pursuant to Business and
7 Professions Code section 9884.7, subdivision (a)(6), in regard to the undercover vehicle in that
8 Respondent failed to comply with:

9 a) CCR 3353, subdivision (a) in a material respect, as follows, Respondent failed to
10 provide a written estimate prior to the diagnostic work being performed on July 28, 2011.

11 b) CCR 3356, subdivision (a)(2)(B), in a material respect, as follows, Respondent
12 failed to describe, on invoice number [REDACTED] dated July 28, 2011, all service work and parts in such
13 a manner that the customer can understand what was purchased.

14 c) CCR 3373 in a material respect, as follows, Respondent provided a false
15 and misleading document to the operator in that she failed to document the resetting of the fuel
16 shut-off inertia switch on the undercover vehicle on invoice number [REDACTED] dated July 28, 2011.

17 **UNDERCOVER OPERATION – NOVEMBER 17, 2011**

18 32. On or about November 17, 2011, a Bureau representative transported a Bureau
19 documented undercover vehicle to Respondent's facility leaving it on the street in front of the
20 facility. The undercover vehicle had been previously documented as only needing the fuel shut-
21 off inertia switch reset. A Bureau undercover operator (operator) later contacted the Respondent's
22 employee, Danny, and requested he diagnose a crank over/no start condition. Danny told the
23 operator that he would diagnose the problem and the cost would be \$65.00. The operator
24 authorized the diagnosis. Later that day Danny called the operator and told him that the problem
25 was in the fuel pump circuit, caused by the tripped fuel inertia switch. Danny then said that he
26 reset the fuel inertia switch and that the vehicle was operating properly. The operator was then
27 told the final bill was \$75.00 and when he asked why the bill had increased from \$65.00 to
28 \$75.00, Danny told him that he had worked on the vehicle for an hour and the shop's labor rate

1 was \$75.00 an hour. The operator returned to Respondent's facility the same day, paid
2 Respondent \$75.00, signed and received a copy of an unnumbered invoice dated November 17,
3 2011 and retrieved the undercover vehicle.

4 33. On or about November 30, 2011 a Bureau representative re-inspected the 2000
5 undercover vehicle and found the fuel shut-off inertia switch had been reset, as invoiced.

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with the Code)**

8 34. Respondent has subjected her registration to discipline pursuant to Business and
9 Professions Code section 9884.7, subdivision (a)(6), in that on November 17, 2011 in regard to
10 the undercover vehicle, Respondent failed to comply with the following sections of that code:

11 a) Section 9884.9, subdivision (a): Respondent failed to revise the original
12 estimated price and to obtain authorization for the increase in estimate prior to the work not
13 estimated being done.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Violation of Regulation)**

16 35. Respondent has subjected her registration to discipline pursuant to Business and
17 Professions Code section 9884.7, subdivision (a)(6), in regard to the undercover vehicle in that
18 Respondent failed to comply with:

19 a) CCR 3353, subdivision (c) in a material respect, as follows: Respondent failed
20 to revise the original estimate of \$65.00 and to obtain authorization from the operator for the
21 additional \$10.00 charged.

22 b) CCR 3373 in a material respect, as follows: Respondent created a false and
23 misleading document by stating, on the unnumbered invoice dated November 17, 2011, that they
24 obtained initial authorization from the operator for \$75.00, when in fact they had only received
25 authorization for \$65.00.

26 **UNDERCOVER OPERATION – FEBRUARY 22, 2012**

27 36. On or about February 22, 2012, a Bureau undercover operator drove a Bureau
28 documented undercover vehicle to Respondent's facility, told Respondent's employee, Danny,

1 that the battery was draining overnight (going dead) and requested that he diagnose and repair the
2 vehicle. A Bureau representative had previously replaced the alternator and had documented the
3 electrical system as being in good and serviceable condition. The only repair necessary was to
4 replace the broken wiring connector at the alternator. The operator signed and received a copy of
5 an estimate number [REDACTED] for \$70.00, for the diagnosis of the electrical problem. Later that day the
6 operator was contacted by Respondent's employee Danny, who said the vehicle needed an
7 alternator. Danny later called the operator with an estimated price for replacement of the
8 alternator of \$329.88. The operator authorized the repair and was told that this repair would be
9 completed and that the vehicle would be ready on the following day.

10 37. On February 23, 2012, the operator contacted Respondent and spoke with Danny.
11 Danny informed her that he had installed the new alternator, but it had not corrected the problem.
12 He then said he further diagnosed the problem and found a broken wire at the alternator. Danny
13 said he removed the new alternator, reinstalled the original alternator and repaired the wire.
14 Danny said the charge system was now operating properly and the final bill was for \$150.00. The
15 operator then returned to the facility and paid Respondent \$150.00. She then signed and received
16 a copy of invoice number [REDACTED] dated February 22, 2012 and retrieved the vehicle.

17 38. On or about March 8, 2012, a Bureau representative re-inspected the undercover
18 vehicle and found the original alternator was still in place but the electrical connector at the
19 alternator had not been repaired, but instead had been secured in place with tie straps.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 39. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
23 that on or about February 22, 2012, Respondent made statements which she knew or which by
24 exercise of reasonable care should have known to be untrue or misleading when she told the
25 undercover operator that the alternator wire on the Bureau's undercover vehicle had been
26 repaired, when in fact, no repairs had been made and the connector had been held in place with tie
27 straps.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with the Code)

3 40. Respondent has subjected his registration to discipline pursuant to Business and
4 Professions Code section 9884.7, subdivision (a)(6), in that on February 22, 2012, regarding the
5 Bureau's undercover vehicle, Respondent failed to comply with the following sections of that
6 code:

7 a) Section 9884.7, subdivision (a)(7): Respondent failed to follow accepted trade
8 standards when her employee installed tie straps to hold the alternator wiring connector in
9 position on the alternator when the accepted repair, is to replace the broken harness connector and
10 reconnect it to the alternator.

11 b) Section 9884.9, subdivision (a): Respondent failed to record the undercover
12 operator's authorization for the revised estimate amount on invoice.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

14 (Violation of Regulation)

15 41. Respondent has subjected her registration to discipline pursuant to Business and
16 Professions Code section 9884.7, subdivision (a)(6), in regard to the undercover vehicle in that
17 Respondent failed to comply with:

18 a) CCR 3353, subdivision (c) in a material respect, as follows, Respondent failed to
19 properly document the operator's authorization for additional repairs on invoice number [REDACTED]

20 b) CCR 3373 in a material respect as follows, Respondent created a false and
21 misleading record when she recorded on invoice number [REDACTED] dated February 22, 2012, that her
22 employee repaired a broken wire to the alternator, when in fact, no wire repair had been
23 performed.

24 **OTHER MATTERS**

25 42. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
26 probation the registrations for all places of business operated in this state by Michele N. Shutz,
27 upon a finding that she has, or is, engaged in a course of repeated and willful violation of the laws
28 and regulations pertaining to an automotive repair dealer.

PRAYER

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

1. Revoking, suspending, or placing on probation Automotive Repair Dealer Registration No. ARD 263557, issued to Michele N. Shutz, doing business as M D Service;
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Michele N. Shutz;
3. Ordering Michele N. Shutz, doing business as M D Service to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: June 13, 2013

John Wallauch by Joyce B...
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant
DIVA BALATA

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: M D SERVICES; MICHELE N. SHUTZ**
Case No.: **77/13-74**

I declare:

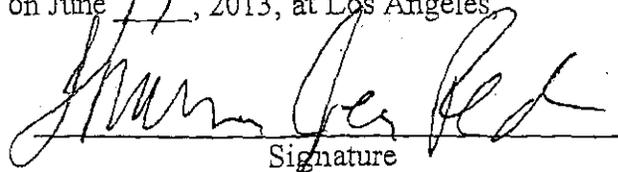
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On June 17, 2013, I served the attached **STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 Copies); GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 Copies); GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

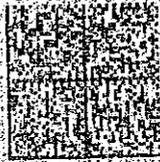
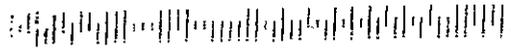
Michele N. Shutz
M D Service
16158 K Street
Mojave, CA 93501
Respondent
Certified Mail No. 7196 9008 9111 8918 0615

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 17, 2013, at Los Angeles, California.

Thurman Peden
Declarant


Signature

Kevin J. Rig
Office of the
300 South Spring Street, Suite 1702
Los Angeles, CA 90013



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Michele N. Shutz

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Kevin Rigley

From: US_Postal_Service@usps.com
Sent: Tuesday, January 28, 2014 3:28 PM
To: Kevin Rigley
Subject: U.S. Postal Service Track & Confirm email Restoration - 71969008911189180615

This is a post-only message. Please do not respond.

Kevin Rigley has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: 71969008911189180615

Service Type: Certified Mail™

| Shipment Activity | Location | Date & Time |
|--------------------------------------|----------------------|------------------------|
| Processed through USPS Sort Facility | BAKERSFIELD CA 93380 | July 3, 2013 12:39 am |
| Processed through USPS Sort Facility | BAKERSFIELD CA 93380 | July 2, 2013 9:39 pm |
| Processed through USPS Sort Facility | LOS ANGELES CA 90052 | July 1, 2013 6:16 pm |
| Forwarded | MOJAVE CA | June 19, 2013 10:51 am |
| Depart USPS Sort Facility | BAKERSFIELD CA 93380 | June 19, 2013 |
| Processed through USPS Sort Facility | BAKERSFIELD CA 93380 | June 19, 2013 12:40 am |
| Processed through USPS Sort Facility | BAKERSFIELD CA 93380 | June 18, 2013 9:52 pm |
| Depart USPS Sort Facility | LOS ANGELES CA 90052 | June 18, 2013 |
| Processed through USPS Sort Facility | LOS ANGELES CA 90052 | June 17, 2013 8:40 pm |

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm tool at <http://www.usps.com/shipping/trackandconfirmfaq.htm>.