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7

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

12 In the Matter of the Accusation Against:

Case No. 77/21-14514

13 **D & S SERVICE CENTER, INC. DBA DS**
14 **AUTO EXPERTS;**
15 **DEBRA PRADO, PRESIDENT**
16 **SANTOS PRADO,**
17 **SECRETARY/TREASURER**
2500 E. Main Street
Visalia, CA 93292

ACCUSATION

18 **Automotive Repair Dealer Registration**
19 **No. ARD 267538**
20 **Smog Check Station License No. RC 267538**
21 **Brake Station License No. BS 267538, Class A**
22 **Lamp Station License No. LS 267538, Class A**

Respondent.

23 **PARTIES**

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

25 **Automotive Repair Dealer Registration**

26 2. On or about December 23, 2011, the Bureau issued Automotive Repair Dealer
27 Registration Number ARD 267538 (registration) to D & S Service Center, Inc., doing business as
28 DS Auto Experts (Respondent) with Debra Prado as President and Santos Prado as Secretary and

1 Treasurer. The Automotive Repair Dealer Registration was in full force and effect at all times
2 relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

3 **Smog Check Station License**

4 3. On or about December 30, 2011, the Bureau issued Smog Check Station License
5 Number RC 267538 to Respondent. The Smog Check Station License was in full force and effect
6 at all times relevant to the charges brought herein and will expire on December 31, 2022, unless
7 renewed.

8 **Brake Station License**

9 4. On or about January 17, 2012, the Bureau issued Brake Station License Number BS
10 267538, Class A, to Respondent. The Brake Station License was in full force and effect at all
11 times relevant to the charges brought herein and will expire on December 31, 2022, unless
12 renewed.

13 **Lamp Station License**

14 5. On or about January 17, 2012, the Bureau issued Lamp Station License Number LS
15 267538, Class A, to Respondent. The Brake Station License was in full force and effect at all
16 times relevant to the charges brought herein and will expire on December 31, 2022, unless
17 renewed.

18 **JURISDICTION**

19 6. This Accusation is brought before the Bureau under the authority of the following
20 laws. All section references are to the Business and Professions Code (Code) unless otherwise
21 indicated.

22 7. Code section 9884.7 provides, in pertinent part, that the Director may revoke an
23 automotive repair dealer registration.

24 8. Code section 9884.13 states, "The expiration of a valid registration shall not deprive
25 the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding
26 against an automotive repair dealer or to render a decision invalidating a registration temporarily
27 or permanently."

28 //

1 9. Code section 118, subdivision (b), states:

2 The suspension, expiration, or forfeiture by operation of law of a license
3 issued by a board in the department, or its suspension, forfeiture, or cancellation
4 by order of the board or by order of a court of law, or its surrender without the

5 written consent of the board, shall not, during any period in which it may be
6 renewed, restored, reissued, or reinstated, deprive the board of its authority to
7 institute or continue a disciplinary proceeding against the licensee upon any
8 ground provided by law or to enter an order suspending or revoking the license or
9 otherwise taking disciplinary action against the licensee on any such ground.

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

14 11. Code section 9889.1 provides, in pertinent part, that the Director may suspend or
15 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
16 Automotive Repair Act.

17 12. Code section 9889.7 states, “The expiration or suspension of a license by operation
18 of law or by order or decision of the director or a court of law, or the voluntary surrender of a
19 license by a licensee shall not deprive the director of jurisdiction to proceed with any
20 investigation of or action or disciplinary proceedings against such licensee, or to render a decision
21 suspending or revoking such license.”

22 13. Health and Safety (Health & Saf.) Code section 44002 provides, in pertinent part, that
23 the Director has all the powers and authority granted under the Automotive Repair Act for
24 enforcing the Motor Vehicle Inspection Program.

25 14. Health & Saf. Code section 44072.6 states, “The expiration or suspension of a license
26 by operation of law or by order or decision of the director or a court of law, or the voluntary
27 surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with
28 any investigation of, or action or disciplinary proceedings against, the licensee, or to render a
29 decision suspending or revoking the license.”

30 15. Health & Saf. Code section 44072.8 states, “When a license has been revoked or
31 suspended following a hearing under this article, any additional license issued under this chapter

1 in the name of the licensee may be likewise revoked or suspended by the director.”

2 STATUTORY PROVISIONS

3 16. Code section 9884.7 states, in pertinent part:

4 (a) The director, where the automotive repair dealer cannot show there was a
5 bona fide error, may deny, suspend, revoke, or place on probation the registration
6 of an automotive repair dealer for any of the following acts or omissions related to
7 the conduct of the business of the automotive repair dealer, which are done by the
8 automotive repair dealer or any automotive technician, employee, partner, officer,
9 or member of the automotive repair dealer.

10 (1) Making or authorizing in any manner or by any means whatever any
11 statement written or oral which is untrue or misleading, and which is known, or
12 which by the exercise of reasonable care should be known, to be untrue or
13 misleading.

14 ...

15 (4) Any other conduct which constitutes fraud.

16 (6) Failure in any material respect to comply with the provisions of this
17 chapter or regulations adopted pursuant to it.

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

21 ...

22 17. Code section 9884.8 states:

23 All work done by an automotive repair dealer, including all warranty work,
24 shall be recorded on an invoice and shall describe all service work done and parts
25 supplied. Service work and parts shall be listed separately on the invoice, which
26 shall also state separately the subtotal prices for service work and for parts, not
27 including sales tax, and shall state separately the sales tax, if any, applicable to
28 each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall
clearly state that fact. If a part of a component system is composed of new and
used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The
invoice shall include a statement indicating whether any crash parts are original
equipment manufacturer crash parts or nonoriginal equipment manufacturer
aftermarket crash parts. One copy of the invoice shall be given to the customer
and one copy shall be retained by the automotive repair dealer.

18 18. Code section 9884.9 states, in pertinent part:

19 (a) The automotive repair dealer shall give to the customer a written
20 estimated price for labor and parts necessary for a specific job, except as provided
21 in subdivision (e). No work shall be done and no charges shall accrue before
22 authorization to proceed is obtained from the customer. No charge shall be made
23 for work done or parts supplied in excess of the estimated price, or the posted
24 price specified in subdivision (e), without the oral or written consent of the
25 customer that shall be obtained at some time after it is determined that the

1 estimated or posted price is insufficient and before the work not estimated or
2 posted is done or the parts not estimated or posted are supplied. Written consent
3 or authorization for an increase in the original estimated or posted price may be
4 provided by electronic mail or facsimile transmission from the customer. The
5 bureau may specify in regulation the procedures to be followed by an automotive
6 repair dealer if 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, and shall do either of the following:

7 (1) Make a notation on the invoice of the same facts set forth in the notation
8 on the work order.

9 (2) Upon completion of the repairs, obtain the customer's signature or
10 initials to an acknowledgment of notice and consent, if there is an oral consent of
the customer to additional repairs, in the following language:

11 I acknowledge notice and oral approval of an increase in the original
12 estimated price.

13 (signature or initials)

14 Nothing in this section shall be construed as requiring an automotive repair dealer
15 to give a written estimated price if the dealer does not agree to perform the
16 requested repair. . . .

17 19. Code section 9889.3 states, in pertinent part:

18 The director may suspend, revoke, or take other disciplinary action against a
19 license as provided in this article [Article 7 (commencing with section 9889.1) of the
Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

20 . . .

21 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is
22 injured....

23 20. Code section 9889.3 states, in pertinent part:

24 The director may suspend, revoke, or take other disciplinary action against a
25 license as provided in this article [Article 7 (commencing with section 9889.1) of the
Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

26 . . .

27 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is
28 injured. . . .

21. Code section 17200 states:

26 As used in this chapter, unfair competition shall mean and include any
27 unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or
28 misleading advertising and any act prohibited by Chapter 1 (commencing with
Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

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1 22. Health & Saf. Code section 44072.2 states, in pertinent part:

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

4 (d) Commits any act involving dishonesty, fraud, or deceit whereby another
5 is injured....

6 **REGULATORY PROVISIONS**

7 23. California Code of Regulations, title 16 (CCR), section 3366, provides, in pertinent
8 part:

9 (a) Except as provided in subsection (b) of this section, any automotive repair
10 dealer that advertises or performs, directly or through a sublet contractor, automotive
11 air conditioning work and uses the words service, inspection, diagnosis, top off,
12 performance check or any expression or term of like meaning in any form of
advertising or on a written estimate or invoice shall include and perform all of the
following procedures as part of that air conditioning work:

12 ...

13 24. CCR section 3373, states:

14 No automotive repair dealer or individual in charge shall, in filling out an
15 estimate, invoice, or work order, or record required to be maintained by section
16 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
17 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.

18 **COST RECOVERY**

19 25. Code section 125.3 provides, in pertinent part, that the Bureau may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement
22 of the case, with failure of the licentiate to comply subjecting the license to not being renewed or
23 reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
24 stipulated settlement.

25 **CONSUMER COMPLAINT – RH**

26 26. On or about July 12, 2021, the Bureau received a complaint from RH alleging that
27 Respondent overcharged him and performed unnecessary repairs to his 2012 Volvo XC90 (2012
28 Volvo).

27. During the investigation, a Bureau investigator reviewed documents provided by RH and Respondent and determined the following facts:

28. On or about April 28, 2021, RH took the 2012 Volvo to Respondent's facility to have a Smog Inspection Pretest performed. Respondent performed the pretest inspection, and the vehicle failed due to incomplete OBD readiness monitors¹. According to Estimate No. 122569, Respondent performed a readiness drive cycle to complete the readiness monitors, but failed to obtain RH's authorization prior to performing the work. Estimate No. 122569 documented that the readiness drive cycle found all necessary monitors to be complete; however, Work Order No. 92706, documented that the powertrain control module (PCM) would not set the oxygen sensor monitor to complete and Respondent recommended that all four sensors be replaced. Invoice No. 92706 documented that Respondent removed and replaced the bank 2 air fuel ratio sensor and found the vehicle was ready for a smog inspection.

29. A review of Invoice No. 92706 found that RH was charged twice to perform adaptive strategies re-learn procedures. RH paid a total of \$1,303.86 to Respondent for repairs that ultimately did not prepare the 2012 Volvo to pass a smog inspection.

30. On or about July 8, 2021, RH took his vehicle to Haron Motor Sales, Inc. (Haron's) to repair the OBD readiness monitors. Haron's Invoice No. 95104 documented that the O2 monitor was not set and found the engine control module (ECM) software was outdated. Haron's performed the ECM software update which set the O2 monitor to completion.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

31. Respondent's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that regarding the 2012 Volvo, Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading as follows:

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¹ Readiness monitors are an on-board diagnostic self-test of the performance of a car's emission-related systems.

1 a. Respondent represented to RH that replacing the bank 2 air fuel sensor would
2 remedy the vehicle's readiness, when the correct repair was to perform the ECM Software update.

3 b. Respondent documented that the 2012 Volvo was ready for a smog inspection
4 when, in fact, it was not.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 32. Respondent's registration is subject to disciplinary action pursuant to Code section
8 9884.7, subdivision (a)(4), in that regarding the 2012 Volvo, Respondent committed acts
9 constituting fraud by double charging RH to perform adaptive strategies to relearn procedures, as
10 set forth in paragraph 29, above.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with the Automotive Repair Act)**

13 33. Respondent's registration is subject to disciplinary action pursuant to Code section
14 9884.7, subdivision (a)(6), in that regarding the 2012 Volvo, Respondent failed to materially
15 comply with the Automotive Repair Act, as follows:

16 a. **Code section 9884.9, subdivision (a):** Respondent failed to provide RH
17 with an estimate before commencing repairs and performing the vehicle drive cycle to complete
18 the OBD readiness monitors.

19 b. **Code section 17200:** Respondent unnecessarily charged RH for the bank 2
20 air fuel sensor that was not needed. In fact, the correct repair was to update the ECM software.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud, or Deceit Causing Injury to Another)**

23 34. Respondent's smog check station license is subject to disciplinary action pursuant to
24 Health and Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
25 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 32, above.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit)**

3 35. Respondent's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed dishonest,
5 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 32, above.

6 **CONSUMER COMPLAINT – MH**

7 36. The Bureau received a complaint from MH alleging that she took her 2012 Ford
8 Escape (2012 Ford) to Respondent's facility to check her air conditioning system. MH alleged
9 that she did not authorize the repairs that Respondent performed.

10 37. During the investigation, a Bureau investigator reviewed documents provided by MH
11 and Respondent and determined the following facts:

12 38. Invoice No. 93018 dated June 17, 2021, showed that Respondent failed to comply
13 with accepted trade standards when Respondent failed to record all the required air conditioning
14 trade standard procedures that were performed on the 2012 Ford. That same invoice revealed that
15 MH was charged twice to identify Freon, check belts, check hoses, check mode controls, and
16 evacuate and recharge as permissible.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 39. Respondent's registration is subject to disciplinary action pursuant to Code section
20 9884.7, subdivision (a)(1), in that regarding the 2012 Ford, Respondent made or authorized
21 statements which it knew or in the exercise of reasonable care should have known to be untrue or
22 misleading when Respondent recorded on Invoice No. 93018 the same labor descriptions to
23 "identify Freon, check belts, check hoses, check mode controls, and evacuate and recharge as
24 permissible."

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 40. Respondent's registration is subject to disciplinary action pursuant to Code section
28 9884.7, subdivision (a)(4), in that regarding the 2012 Ford, Respondent committed acts

1 constituting fraud when on Invoice No. 93018, Respondent charged MH twice to identify Freon,
2 check belts, check hoses, check mode controls, and evacuate and recharge as permissible

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Departure from Accepted Trade Standards)**

5 41. Respondent's registration is subject to disciplinary action pursuant to Code section
6 9884.7, subdivision (a)(7), in that regarding the 2012 Ford, Respondent failed to record all the
7 required air conditioning trade standard procedures performed.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations)**

10 42. Respondent's registration is subject to disciplinary action pursuant to Code
11 section 9884.7, subdivision (a)(6), in that regarding the 2012 Volvo, Respondent failed to comply
12 with provisions of the CCR, as follows:

13 a. **Section 3366:** Respondent failed to record all the required air
14 conditioning trade standard procedures performed on Invoice No. 93018

15 **TENTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud, or Deceit Causing Injury to Another)**

17 43. Respondent's smog check station license is subject to disciplinary action pursuant to
18 Health and Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
19 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 40, above.

20 **ELEVENTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud, or Deceit)**

22 44. Respondent's brake and lamp station licenses are subject to disciplinary action
23 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed dishonest,
24 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 40, above.

25 **UNDERCOVER OPERATION**

26 45. On or about November 3, 2021, a Bureau undercover operator (operator) took a
27 Bureau- documented 2007 Toyota to Respondent's facility and requested a diagnosis for an
28 illuminated Malfunction Indicator Lamp (MIL). Respondent's employee, Moises, performed an

1 initial vehicle scan and informed the operator that diagnostic codes P0171, P0174, P0441, and
2 P0445 were active and that it would cost \$558.69 to diagnose the vehicle's evaporative emissions
3 control system and lean codes.

4 46. The following day, the operator spoke to Moises who stated that both air-fuel ratio
5 sensors, right-side exhaust manifold converter assembly, and fuel cap needed to be replaced.
6 Moises informed the operator that the cost to repair the vehicle and fix the MIL would be
7 \$2,966.86. On or about November 8, 2021, the operator paid a \$1,400.00 deposit.

8 47. On or about November 16, 2021, Moises told the operator that the repairs were
9 complete but a new diagnostic code, P0505, appeared and Moises told the operator that the he had
10 authorized the technician to diagnose the new code. Moises told the operator that the vehicle idle
11 was erratic and that the electronic throttle body did not respond to the PCM commands, further
12 stating that the electronic throttle body was defective and required replacement and that the new
13 total would be \$4,479.20. The operator authorized the repair.

14 48. On or about November 17, 2021, the operator returned to Respondent's facility to
15 retrieve the 2007 Toyota. The operator paid the remaining balance of \$3,029.20 and was
16 provided with Invoice No. 93933 dated November 17, 2021.

17 49. A Bureau representative subsequently inspected the 2007 Toyota by comparing the
18 vehicle to Respondent's Invoice No. 93933 and determined the following:

19 a. The vehicle's evaporative purge vacuum switching valve (EVAP) was
20 scanned, and no diagnostic trouble codes (DTC) were present and all readiness monitors except
21 the EVAP had run to completion.

22 b. The Fuel Tank Cap, Air Fuel Ratio Sensors, right side Catalytic Converter,
23 Exhaust Manifold, and Throttle Body Assembly had been replaced as invoiced.

24 c. The replacement of the Fuel Tank Cap, Air Fuel Ratio Sensors, right side
25 Catalytic Converter, Exhaust Manifold, and Throttle Body Assembly was not needed to repair the
26 vehicle.

27 d. The only repair needed to fix the MIL was to replace the defective EVAP
28 Purge VSV and clear the DTC's.

1 e. The defective EVAP Purge VSV was replaced but Respondent failed to
2 mention or list that on the invoice.

3 50. A review of Invoice No. 93933 stated that Moises received authorization from the
4 operator to inspect fault code P0505 and lean condition for \$349.18, when in fact, he did not.
5 Moises stated to the operator that he personally authorized the technician to inspect the P0505
6 fault code and lean condition. Further, Respondent failed to disclose replacing the defective
7 EVAP Purge VSV and failed to tell the operator or to list it on the invoice.

8 **TWELFTH CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 51. Respondent's registration is subject to disciplinary action pursuant to Code section
11 9884.7, subdivision (a)(1), in that regarding the 2007 Toyota, Respondent made or authorized
12 statements which it knew or in the exercise of reasonable care should have known to be untrue or
13 misleading as follows:

14 a. Respondent represented to the operator that the vehicle needed a new Fuel Tank
15 Cap, Air Fuel Ratio Sensors, and the right-side Catalytic Converter and Throttle Body Assembly,
16 when in fact, the only repair required to fix the vehicle was to replace the defective EVAP Purge
17 VSV and clear the DTC's.

18 b. Respondent created a false record by documenting on Invoice No. 93933, that
19 Moises obtained authorization from the operator to inspect P0505 and lean condition when in
20 fact, Moises authorized the technician to inspect the P0505 fault code and lean condition.

21 c. Respondent created a false records by documenting on Invoice No. 93933 the
22 fault code P0445 when in fact, the fault code P0445 does not pertain to this specific vehicle
23 according to the manufacturer.

24 **THIRTEENTH CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 52. Respondent's registration is subject to disciplinary action pursuant to Code section
27 9884.7, subdivision (a)(4), in that regarding the 2007 Toyota, Respondent committed acts
28 constituting fraud when they charged \$4,429.20 to replace the Fuel Tank Cap, Air Fuel Ratio

1 Sensors, the right-side Catalytic Converter, and Throttle Body Assembly, when in fact, the only
2 repair required to fix the vehicle was to replace the defective EVAP Purge VSV and clear the
3 DTC's.

4 **FOURTEENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with the Automotive Repair Act)**

6 53. Respondent's registration is subject to disciplinary action pursuant to Code section
7 9884.7, subdivision (a)(6), in that as regards the Bureau's 2007 Toyota, Respondent failed to
8 materially comply with the Automotive Repair Act, as follows:

9 a. **Code section 9884.8:** Respondent failed to list the EVAP Purge VSV part
10 on the invoice, and the service work for replacing the EVAP Purge VSV.

11 b. **Code section 9884.9, subdivision (a):** Respondent failed to obtain
12 additional authorization to inspect the P0505 fault code and lean condition from the operator,
13 when in fact, Moises told the operator that he personally had authorized the technician to inspect
14 the P0505 fault code and lean condition.

15 **FIFTEENTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud, or Deceit Causing Injury to Another)**

17 54. Respondent's smog check station license is subject to disciplinary action pursuant to
18 Health and Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
19 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 52, above.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud, or Deceit)**

22 55. Respondent's brake and lamp station licenses are subject to disciplinary action
23 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed dishonest,
24 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 52, above.

25 **DISCIPLINARY CONSIDERATIONS**

26 56. To determine the degree of discipline, if any, to be imposed, Complainant alleges
27 as follows:
28

a. On or about June 10, 2015, the Bureau issued Citation No. C2015-920 to Respondent for violating Health & Safety Code section 44012 (using an emission inspection system when an on-board diagnostic inspection system test was required).

b. On or about July 28, 2016, the Bureau issued Citation No. C2016-1478 to Respondent for violating Health & Safety Code section 44012 (using an emission inspection system when an on-board diagnostic inspection system test was required).

c. On or about November 21, 2018, the Bureau issued Citation No. C2018-2444 to Respondent for violating Health & Safety Code section 44012 (using an emission inspection system when an on-board diagnostic inspection system test was required).

d. On or about April 21, 2021, the Bureau held an Office Conference with Respondent regarding multiple consumers complaints, identifying several violations of the Automotive Repair Act, including numerous repeat violations of the Automotive Repair Act, repair practices constituting an act of gross negligence, and allegations of fraud. Respondent was notified that his failure to comply with the provisions of the Automotive Repair Act could result in disciplinary action. At the Office Conference, Respondent agreed to comply with the laws and regulations of the Automotive Repair Act.

OTHER MATTERS

57. Under Code section 9884.7, subdivision (c), the Director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Respondent upon a finding that it has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

58. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License No. RC 267538, issued to Respondent, is revoked or suspended, then any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

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59. Under Code section 9889.9, if any license has been revoked or suspended following a hearing under the provisions of this article, any additional license issued under article five and six of this chapter in the name of the licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 267538, issued to D & S Service Center, Inc. doing business as DS Auto Experts;
2. Revoking or suspending any other automotive repair dealer registration issued to D & S Service Center, Inc.;
3. Revoking or suspending Smog Check Station License Number RC 267538, issued to D & S Service Center, Inc. doing business as DS Auto Experts;
4. Revoking or suspending any additional license issued under of Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of D & S Service Center, Inc.;
5. Revoking or suspending Brake Station License Number BS 267538, issued to D & S Service Center, Inc. doing business as DS Auto Experts;
6. Revoking or suspending Lamp Station License Number LS 267538, issued to D & S Service Center, Inc. doing business as DS Auto Experts;
7. Revoking or suspending any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Business and Professions Code in the name of D & S Service Center, Inc.;
8. Ordering D & S Service Center, Inc. doing business as DS Auto Experts 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,

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

DATED: As of Digital Signature Date__

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2022.08.16 12:26:16 -07'00'

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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