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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:

**ATLANTIC TEST ONLY CENTER; ALEX
SIRANI
300 S. Atlantic Blvd
Los Angeles, CA 90022
Automotive Repair Dealer Registration No.
ARD 213876
Smog Check, Test Only, Station License No.
TC 213876**

Respondent.

Case No. 79/12-76

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 8, 2012, Complainant John Wallauch, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/12-76 against Atlantic Test Only Center; Alex Sirani (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)
2. On or about January 1, 2000, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 213876 to Respondent. The Automotive Repair Dealer Registration expired on November 30, 2009, and has not been renewed.
3. On or about January 12, 2007, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License No. TC 213876 to Respondent. The Smog Check, Test Only, Station License expired on November 30, 2009, and has not been renewed.

1 4. On or about February 29, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 79/12-76, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
5 Code section 136, is required to be reported and maintained with the Bureau, which was and is:
6 300 S. Atlantic Blvd, Los Angeles, CA 90022.

7 5. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 6. On or about March 5, 2012, the aforementioned documents were returned by the U.S.
11 Postal Service marked "Attempted Not Known." The address on the documents was the same as
12 the address on file with the Bureau. Respondent failed to maintain an updated address with the
13 Bureau and the Bureau has made attempts to serve the Respondent at the address on file.
14 Respondent has not made himself available for service and therefore, has not availed himself of
15 his right to file a notice of defense and appear at hearing.

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

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

20 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 79/12-76.

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
respondent.

27 10. Pursuant to its authority under Government Code section 11520, the Director after
28 having reviewed the proof of service dated February 29, 2012, signed by Teresa Sutton, (and

1 return envelopes) finds Respondent is in default. The Director will take action without further
2 hearing and, based on Accusation, No. 79/12-76, proof of service and on the Affidavit of Bureau
3 Representative Roger Lehman, finds that the allegations in Accusation are true.

4 11. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$697.50 as of March 13, 2012.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Atlantic Test Only Center; Alex
9 Sirani has subjected his Automotive Repair Dealer Registration No. ARD 213876 and Smog
10 Check, Test Only, Station License No. TC 213876 to discipline.

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

12 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
13 Repair Dealer Registration based upon the following violations alleged in the Accusation which
14 are supported by the evidence contained in the affidavit of Bureau Representative Roger Lehman
15 in this case.:

16 a. Respondent has subjected his station license to discipline pursuant to Health and
17 Safety Code section 44050, subdivision (e), in that on or about April 6, 2009, the Bureau issued
18 Citation No. C09-1160 to Respondent against his station license for violations of Health and
19 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
20 emission control devices) and California Code of Regulations, title 16, ("Regulation"), section
21 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). The
22 Bureau assessed an administrative fine in the amount of \$500. However, Respondent failed to
23 appeal or pay this citation within thirty (30) days of service of the citation.

24 ORDER

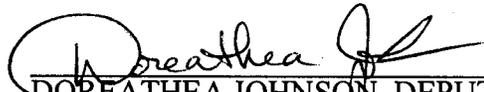
25 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 213876, and
26 Smog Check, Test Only, Station License No. TC 213876, heretofore issued to Respondent
27 Atlantic Test Only Center; Alex Sirani, are both revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
4 Bureau of Automotive Repair, ATTN: Tim Corcoran, 10220 Systems Parkway, Sacramento, CA
5 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of
6 good cause, as defined in the statute.

7 This Decision shall become effective on 5/14/12.

8 It is so ORDERED April 9, 2012

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10 
11 DOREATHEA JOHNSON, DEPUTY DIRECTOR,
12 LEGAL AFFAIRS, DEPARTMENT OF
13 CONSUMER AFFAIRS

13 51081976.DOC
14 DOJ Matter ID:LA2012601718

14 Attachment:
15 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 79/12-76

12 **ATLANTIC TEST ONLY CENTER**
13 **300 S. Atlantic Blvd**
Los Angeles, CA 90022
14 **ALEX SIRANI, OWNER**
Automotive Repair Dealer Registration No. ARD 213876
15 **Smog Check Test Only Station License No. TC 213876**

A C C U S A T I O N

S M O G C H E C K

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
20 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

21 **Automotive Repair Dealer Registration**

22 2. On a date uncertain in 2000, the Bureau issued Automotive Repair Dealer
23 Registration Number ARD 213876 ("registration") to Alex Sirani ("Respondent"), doing business
24 as Atlantic Test Only Center. The registration expired on November 30, 2009.

25 **Smog Check Test Only Station License**

26 3. On or about January 12, 2007, the Bureau issued Smog Check Test Only Station
27 License Number TC 213876 ("station license") to Respondent. The station license expired on
28 November 30, 2009.

1 **CAUSE FOR DISCIPLINE**

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

3 10. Respondent has subjected his station license to discipline pursuant to Health and
4 Safety Code section 44050, subdivision (e), in that on or about April 6, 2009, the Bureau issued
5 Citation No. C09-1160 to Respondent against his station license for violations of Health and
6 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
7 emission control devices) and California Code of Regulations, title 16, ("Regulation"), section
8 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). The
9 Bureau assessed an administrative fine in the amount of \$500. However, Respondent failed to
10 appeal or pay this citation within thirty (30) days of service of the citation.

11 **OTHER MATTERS**

12 11. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
13 License Number TC 213876, issued to Alex Sirani, is revoked or suspended, any additional
14 license issued under this chapter in the name of said licensee may be likewise revoked or
15 suspended by the director.

16 **PRAYER**

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

19 1. Revoking or suspending Smog Check Test Only Station License Number TC 213876,
20 issued to Alex Sirani, doing business as Atlantic Test Only Center;

21 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
22 and Safety Code in the name of Alex Sirani;

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3. Ordering Alex Sirani 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,

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

DATED:

2/8/12



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant