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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:

13 **RUTH D. GONZALEZ DBA R & J SMOG TEST ONLY,**
14 **10232 I Avenue, Unit 13,**
Hesperia, CA 92345

15 **Automotive Repair Dealer Registration No. ARD 259648**
Smog Check Station License No. TC 259648

16 Respondent.

Case No. 19/15-25

A C C U S A T I O N

S M O G C H E C K

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18 Complainant alleges:

19 **PARTIES**

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

22 **Automotive Repair Dealer Registration**

23 2. On or about October 12, 2009, the Bureau issued Automotive Repair Dealer
24 Registration Number ARD 259648 to Ruth D. Gonzalez doing business as R & J Smog Test Only
25 ("Respondent or Gonzalez"). The automotive repair dealer registration was in full force and
26 effect at all times relevant to the charges brought herein and was due to expire on September 30,
27 2013. However, the automotive repair dealer registration was cancelled on March 4, 2013.

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1 **Smog Check Station License**

2 3. On or about November 17, 2009, the Bureau issued Smog Check Station License
3 Number TC 259648 ("station license") to Respondent. The station license was in full force and
4 effect at all times relevant to the charges brought herein. The station license was set to expire on
5 September 30, 2013, but was cancelled on March 4, 2013.

6 **JURISDICTION AND STATUTORY PROVISIONS**

7 4. Section 118, subdivision (b) of the Business and Professions Code states:

8 The suspension, expiration, or forfeiture by operation of law of a license
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by
10 order of the board or by order of a court of law, or its surrender without the written
11 consent of the board, shall not, during any period in which it may be renewed,
12 restored, reissued, or reinstated, deprive the board of its authority to institute or
13 continue a disciplinary proceeding against the licensee upon any ground provided by
14 law or to enter an order suspending or revoking the license or otherwise taking
15 disciplinary action against the licensee on any such ground.

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

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

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

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

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

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

26 8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
27 expiration or suspension of a license by operation of law, or by order or decision of the Director

1 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
2 the Director of jurisdiction to proceed with disciplinary action.

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

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

6 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

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

13 11. Respondent Gonzalez has subjected her station license to discipline pursuant to
14 Health and Safety Code section 44050, subdivision (e), in that the Bureau issued the following
15 citation against Respondent's station license: on or about December 11, 2012 the Bureau issued
16 Citation No. C2013-0396 to Respondent Gonzalez against her station license for violation of
17 Health and Safety Code section 44012, subdivision (f), (failure to perform a visual/functional
18 check of emission control devices). On or about February 5, 2013, the Bureau served Respondent
19 Gonzalez with the citation. The Bureau ordered Respondent Gonzalez pay a fine of \$3000.00.
20 Respondent Gonzalez failed to appeal the citation and the citation became effective on March 8,
21 2013. To date, Respondent Gonzalez has failed pay the fine.

22 **OTHER MATTERS**

23 12. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
24 Number TC 259648, issued to Ruth D. Gonzalez dba R & J Smog Test Only is revoked or
25 suspended, any additional license issued under this chapter in the name of said licensee may be
26 likewise revoked or suspended by the director.

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PRAYER

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 or suspending Ruth D. Gonzalez dba R & J Smog Test Only's Smog Check Station License Number TC 259648;
2. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Ruth D. Gonzalez dba R & J Smog Test Only;
3. Ordering Ruth D. Gonzalez dba R & J Smog Test Only 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: August 26, 2014


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

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