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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 **DANIEL J. OLIVERAS DBA D & J TEST ONLY,**  
14 **11113 San Fernando Road # B,**  
15 **Pacoima, CA 91331**

16 **Automotive Repair Dealer Registration No. ARD 264297**  
17 **Smog Check Test Only Station License No. TC 264297**

18 Respondent.

Case No. 79/15-37

**A C C U S A T I O N**

**S M O G C H E C K**

19 Complainant alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On or about March 4, 2011, the Bureau issued Automotive Repair Dealer Registration  
25 Number ARD 264297 to Daniel J. Oliveras doing business as D & J Test Only ("Respondent or  
26 Oliveras "). The automotive repair dealer registration was in full force and effect at all times  
27 relevant to the charges brought herein, expired on March 31, 2013 and has not been renewed.

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1           **Smog Check Test Only Station License**

2           3.     On or about March 10, 2011, the Bureau issued Smog Check Test Only Station  
3 License Number TC 264297 (“station license”) to Respondent. The station license was in full  
4 force and effect at all times relevant to the charges brought herein, expired on March 31, 2013  
5 and has not been renewed.

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  
continue a disciplinary proceeding against the licensee upon any ground provided by  
law or to enter an order suspending or revoking the license or otherwise taking  
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  
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.

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

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

23                         (b) The department may deny an application for the renewal of a test  
24 station or repair station license if the applicant, or any partner, officer, or director  
25 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  
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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 Oliveras has subjected his station license to discipline pursuant to Health  
14 and Safety Code section 44050, subdivision (e), in that the Bureau issued the following citation  
15 against Respondent's station license: on or about November 8, 2012 the Bureau issued Citation  
16 No. C2013-0314 to Respondent Oliveras against his station license for violation of Health and  
17 Safety Code section 44012, subdivision (f), (failure to perform a visual/functional check of  
18 emission control devices). On or about December 13, 2012, the Bureau served Respondent  
19 Oliveras with the citation. The Bureau ordered Respondent Oliveras to pay a fine of \$1000.00.  
20 Respondent Oliveras failed to appeal the citation and the citation became effective on January 13,  
21 2013. To date, Respondent Oliveras has failed to pay the fine.

22 **OTHER MATTERS**

23 12. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
24 Station License Number TC 264297, issued to Daniel J. Oliveras dba D & J Test Only is revoked  
25 or 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 Daniel J. Oliveras dba D & J Test Only's Smog Check Test Only Station License Number TC 264297;
2. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Daniel J. Oliveras dba D & J Test Only;
3. Ordering Daniel J. Oliveras dba D & J 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: September 5, 2014 

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

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