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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:  
**D & J TEST ONLY; DANIEL J.  
OLIVERAS  
11113 San Fernando Road #B  
Pacoima, CA 91331  
Automotive Repair Dealer Registration No.  
ARD 264297  
Smog Check, Test Only, Station License No.  
TC 264297**  
  
Respondent.

Case No. 79/15-37

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On September 5, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-37 against D & J Test Only; Daniel J. Oliveras (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about March 10, 2011, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License No. TC 264297 to Respondent. The Smog Check, Test Only, Station License expired on March 31, 2013, and has not been renewed.

3. On or about October 20, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/15-37, Statement to Respondent, Notice of Defense,

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
2 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
3 Code section 136, is required to be reported and maintained with the Bureau. Respondent's  
4 address of record was and is: 11113 San Fernando Road #B, Pacoima, CA 91331.

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

7 5. On or about November 19, 2014, the documents served by mail were returned by the  
8 U.S. Postal Service marked "Moved, Left No Address". The address on the documents was the  
9 same as the address on file with the Bureau. Respondent failed to maintain an updated address  
10 with the Bureau and the Bureau has made attempts to serve the Respondent at the address on file.  
11 Respondent has not made himself available for service and therefore, has not availed himself of  
12 his right to file a notice of defense and appear at hearing.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 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.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
19 79/15-37.

20 8. California Government Code section 11520 states, in pertinent part:

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

24 9. Pursuant to its authority under Government Code section 11520, the Director after  
25 having reviewed the proof of service dated October 20, 2014, signed by Stella Esquivel, and  
26 having reviewed the returned mail envelopes, finds Respondent is in default. The Director will  
27 take action without further hearing and, based on Accusation, No. 79/15-37, proof of service and  
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1 on the Affidavit of Bureau Representative Joseph Cheung, finds that the allegations in Accusation  
2 are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent D & J Test Only; Daniel J.  
5 Oliveras has subjected his Smog Check, Test Only, Station License No. TC 264297 to discipline.

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

7 3. The Director of Consumer Affairs is authorized to revoke Respondent's Smog Check,  
8 Test Only Station License based upon the following violations alleged in the Accusation which  
9 are supported by the evidence contained in the affidavit of Bureau Representative Joseph Cheung  
10 in this case: a violation of Health and Safety Code section 44050, subdivision (e), for failing to  
11 comply with a citation issued against Respondent's station license by failing to pay a \$1,000 fine.

12 ORDER

13 IT IS SO ORDERED that Smog Check, Test Only, Station License No. TC 264297,  
14 heretofore issued to Respondent D & J Test Only; Daniel J. Oliveras, is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
16 written motion requesting that the Decision be vacated and stating the grounds relied on within  
17 seven days after service of the Decision on Respondent. The motion should be sent to the Bureau  
18 of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho  
19 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing  
20 on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on January 23, 2015.

22 It is so ORDERED January 2, 2015

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26 51641776.DOC  
27 DOJ Matter ID:LA2014512409  
28 Attachment:  
Exhibit A: Accusation

  
\_\_\_\_\_  
TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

# Exhibit A

Accusation

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1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy 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

7 *Attorneys for Complainant*

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. 79/15-37

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

**ACCUSATION**

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

**SMOG CHECK**

17 Respondent.

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 March 4, 2011, the Bureau issued Automotive Repair Dealer Registration  
24 Number ARD 264297 to Daniel J. Oliveras doing business as D & J Test Only ("Respondent or  
25 Oliveras"). The automotive repair dealer registration was in full force and effect at all times  
26 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*

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

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