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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:
GT TEST ONLY; GLORIA I. ALCANTAR
1721 E. Huntington Drive
Duarte, CA 91010
Automotive Repair Dealer Registration No.
ARD 265872
Smog Check, Test Only, Station License No.
TC 265872

Respondent.

Case No. 79/15-42
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 18, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-42 against GT Test Only; Gloria I. Alcantar (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

Automotive Repair Dealer Registration

2. On or about July 14, 2011, the Bureau issued Automotive Repair Dealer Registration Number ARD 265872 to Gloria I. Alcantar doing business as GT Test Only (“Respondent or Alcantar”). The automotive repair dealer registration was in full force and effect at all times

1 relevant to the charges brought herein and was due to expire on July 31, 2012, but was cancelled
2 on June 13, 2012.

3 **Smog Check Station License**

4 3. On or about July 26, 2011, the Bureau issued Smog Check Station License Number
5 TC 265872 ("station license") to Respondent. The station license was in full force and effect at
6 all times relevant to the charges brought herein. The station license was set to expire on July 31,
7 2012, but was cancelled on June 13, 2012.

8 4. On or about September 30, 2014, Respondent was served by Certified and First Class
9 Mail copies of the Accusation No. 79/15-42, Statement to Respondent, Notice of Defense,
10 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
11 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
12 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
13 address of record was and is: 1721 E. Huntington Drive, Duarte, CA 91010.

14 5. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
16 124.

17 6. On or about October 22, 2014, the aforementioned documents were returned by the
18 U.S. Postal Service marked "Addressee Unknown." The address on the documents was the same
19 as the address on file with the Bureau. Respondent failed to maintain an updated address with the
20 Bureau and the Bureau has made attempts to serve the Respondent at the address on file.
21 Respondent has not made herself available for service and therefore, has not availed herself of her
22 right to file a notice of defense and appear at hearing.

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

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

1 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
2 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No.
3 79/15-42.

4 9. California Government Code section 11520 states, in pertinent part:

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

9 10. Pursuant to its authority under Government Code section 11520, the Director after
10 having reviewed the proof of service dated September 30, 2014, signed by Teresa Sutton, and
11 return envelope finds Respondent is in default. The Director will take action without further
12 hearing and, based on Accusation, No. 79/15-42, proof of service and on the Affidavit of Bureau
13 Representative Joseph B. Cheung, finds that the allegations in Accusation are true.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent GT Test Only; Gloria I. Alcantar
15 has subjected her Smog Check, Test Only, Station License No. TC 265872 to discipline.

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

17 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
18 Repair Dealer Registration based upon the following violations alleged in the Accusation which
19 are supported by the evidence contained in the affidavit of Bureau Representative Joseph B.
20 Cheung in this case:

21 a. Respondent Alcantar has subjected her station license to discipline pursuant to
22 Health and Safety Code section 44050, subdivision (e), in that the Bureau issued the following
23 citation against Respondent's station license: on or about May 16, 2012 the Bureau issued
24 Citation No. C2012-1579 to Respondent Alcantar against her station license for violation of
25 Health and Safety Code section 44012, subdivision (f), (failure to perform a visual/functional
26 check of emission control devices). On or about June 13, 2012, the Bureau served Respondent
27 Alcantar with the citation. The Bureau ordered Respondent Alcantar pay a fine of \$1000.00.
28

1 Respondent Alcantar failed to appeal the citation and the citation became effective on July 13,
2 2012. To date, Respondent Alcantar has failed to pay the fine.

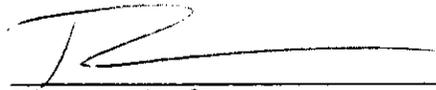
3 ORDER

4 IT IS SO ORDERED that Smog Check, Test Only, Station License No. TC 265872,
5 heretofore issued to Respondent GT Test Only; Gloria I. Alcantar, is revoked.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
7 written motion requesting that the Decision be vacated and stating the grounds relied on within
8 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
9 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
10 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
11 on a showing of good cause, as defined in the statute.

12 This Decision shall become effective on March 10, 2015.

13 It is so ORDERED March 17, 2015

14
15
16 
17 TAMARA COLSON
18 Assistant General Counsel
19 Department of Consumer Affairs

19 51624696.DOC
20 DOJ Matter ID: LA2014512422

21 Attachment:
22 Exhibit A: Accusation
23
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Exhibit A

Accusation

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. 79/15-42

13 **GT TEST ONLY; GLORIA I. ALCANTAR**

STATEMENT TO RESPONDENT

14 Respondent.

[Gov. Code §§ 11504, 11505(b)]

15 **TO RESPONDENT:**

16 Enclosed is a copy of the Accusation that has been filed with the Director of Consumer
17 Affairs, Bureau of Automotive Repair (Bureau), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered or
19 mailed to the Bureau, represented by Supervising Deputy Attorney General Gregory J. Salute,
20 within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to
21 you, you will be deemed to have waived your right to a hearing in this matter and the Bureau may
22 proceed upon the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed forms
24 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
25 section 11506 of the Government Code, to

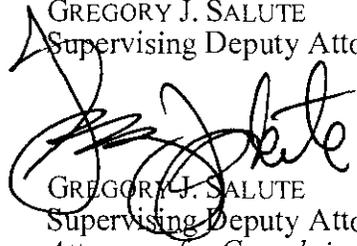
26 **Gregory J. Salute**
27 **Supervising Deputy Attorney General**
28 **Ronald Reagan Building**
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

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If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Supervising Deputy Attorney General Gregory J. Salute at the earliest opportunity.

Dated: September 29, 2014

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



GREGORY J. SALUTE
Supervising Deputy Attorney General
Attorneys for Complainant

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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
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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 **GLORIA I. ALCANTAR DBA GT TEST ONLY,**
14 **1721 E. Huntington Drive,**
Duarte, CA 91010

15 **Automotive Repair Dealer Registration No. ARD 265872**
Smog Check Station License No. TC 265872

16 Respondent.

Case No. 79/15-42

A C C U S A T I O N

S M O G C H E C K

17
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 July 14, 2011, the Bureau issued Automotive Repair Dealer Registration
24 Number ARD 265872 to Gloria I. Alcantar doing business as GT Test Only ("Respondent or
25 Alcantar"). The automotive repair dealer registration was in full force and effect at all times
26 relevant to the charges brought herein and was due to expire on July 31, 2012, but was cancelled
27 on June 13, 2012.

28 ///

1 **Smog Check Station License**

2 3. On or about June 26, 2011, the Bureau issued Smog Check Station License Number
3 TC 265872 ("station license") to Respondent. The station license was in full force and effect at
4 all times relevant to the charges brought herein. The station license was set to expire on July 31,
5 2012, but was cancelled on June 13, 2012.

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
28

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 licensee 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 Alcantar 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 May 16, 2012 the Bureau issued
16 Citation No. C2012-1579 to Respondent Alcantar 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 June 13, 2012, the Bureau served Respondent
19 Alcantar with the citation. The Bureau ordered Respondent Alcantar pay a fine of \$1000.00.
20 Respondent Alcantar failed to appeal the citation and the citation became effective on July 13,
21 2012. To date, Respondent Alcantar has failed to 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 265872, issued to Gloria I. Alcantar dba GT Test Only is revoked or suspended, any
25 additional license issued under this chapter in the name of said licensee may be likewise revoked
26 or suspended by the director.

27 ///

28 ///

1 PRAYER

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

4 1. Revoking or suspending Gloria I. Alcantar dba GT Test Only's Smog Check Station
5 License Number TC 265872;

6 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
7 and Safety Code in the name of Gloria I. Alcantar dba GT Test Only;

8 3. Ordering Gloria I. Alcantar dba GT Test Only to pay the Bureau of Automotive
9 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
10 Business and Professions Code section 125.3; and,

11 4. Taking such other and further action as deemed necessary and proper.
12

13 DATED: September 18, 2014 Patrick Dorais

14 PATRICK DORAIS
15 Chief
16 Bureau of Automotive Repair
17 Department of Consumer Affairs
18 State of California
19 Complainant

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**BEFORE THE
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FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 79/15-42

GT TEST ONLY; GLORIA I. ALCANTAR

NOTICE OF DEFENSE

Respondent.

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing
Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Respondent's Fax: _____

Respondent's E-mail: _____

Check appropriate box:

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone: _____

Counsel's Fax: _____

Counsel's E-mail: _____

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

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I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

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Respondent's Telephone: _____

Respondent's Fax: _____

Respondent's E-mail _____

Check appropriate box:

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone: _____

Counsel's Fax: _____

Counsel's E-mail: _____

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 GT TEST ONLY; GLORIA I. ALCANTAR
13 Respondent.
14

Case No. 79/15-42

REQUEST FOR DISCOVERY

15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California, parties to an
17 administrative hearing, including the Complainant, are entitled to certain information concerning
18 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
19 concerning such rights is included among the papers served.

20 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
21 HEREBY REQUESTED TO:

- 22 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
23 including, but not limited to, those intended to be called to testify at the hearing, and
- 24 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
25 following in the possession or custody or under control of the Respondent:
 - 26 a. A statement of a person, other than the Respondent, named in the
27 initial administrative pleading, or in any additional pleading, when it is claimed that
28

1 the act or omission of the Respondent as to this person is the basis for the
2 administrative proceeding;

3 b. A statement pertaining to the subject matter of the proceeding made
4 by any party to another party or persons;

5 c. Statements of witnesses then proposed to be called by the
6 Respondent and of other persons having personal knowledge of the acts, omissions or
7 events which are the basis for the proceeding, not included in (a) or (b) above;

8 d. All writings, including but not limited to reports of mental, physical
9 and blood examinations and things which the Respondent now proposes to offer in
10 evidence;

11 e. Any other writing or thing which is relevant and which would be
12 admissible in evidence, including but not limited to, any patient or hospital records
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent
15 pertaining to the subject matter of the proceeding, to the extent that these reports (1)
16 contain the names and addresses of witnesses or of persons having personal
17 knowledge of the acts, omissions or events which are the basis for the proceeding, or
18 (2) reflect matters perceived by the investigator in the course of his or her
19 investigation, or (3) contain or include by attachment any statement or writing
20 described in (a) to (e), inclusive, or summary thereof.

21 For the purpose of this Request for Discovery, "statements" include written statements by
22 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
23 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
24 summaries of these oral statements.

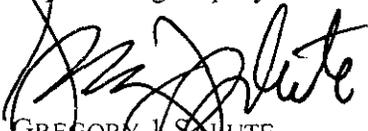
25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
26 should be deemed to authorize the inspection or copying of any writing or thing which is
27 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
28 product.

1 Your response to this Request for Discovery should be directed to the undersigned attorney
2 for the Complainant at the address on the first page of this Request for Discovery within 30 days
3 after service of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery may
5 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
6 Government Code.

7
8 Dated: September 29, 2014

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



GREGORY J. SALUTE
Supervising Deputy Attorney General
Attorneys for Complainant

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