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

10 In the Matter of the Accusation Against:

Case No. 79/16-45

11 **KING SMOG TEST ONLY**
12 **960 S. King Road**
San Jose, CA 95122
13 **NGUYEN HOANG NGUYEN, OWNER**

A C C U S A T I O N

14 **Automotive Repair Dealer Registration No. ARD 267623**
15 **Smog Check Test Only Station License No. TC 267623**

16 **NGUYEN HOANG NGUYEN**
2135 Little Orchard, SP 84
San Jose, CA 95125

17
18 **Smog Check Inspector (EO) License No. 146234**
Smog Check Repair Technician (EI) License No. 146234

19 **BINH-AN TRINH NGUYEN**
20 **554 Arleta Ave.**
San Jose , CA 95128

21 **Smog Check Inspector (EO) License No. 152659**
22 **Smog Check Repair Technician (EI) License No. 152659**

23 **TRUNG MINH TRUONG**
3712 Rue Mirassou
24 **San Jose, CA 95148**

25 **Smog Check Inspector (EO) License No. 634269**
26 **Smog Check Repair Technician (EI) License No. 634269**

27 Respondents.

1 Complainant alleges:

2 PARTIES

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

5 **Automotive Repair Dealer Registration**

6 2. On or about January 5, 2012, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 267623 ("registration") to Nguyen Hoang Nguyen ("Respondent
8 Nguyen Nguyen") doing business as King Smog Test Only. The registration was in full force and
9 effect at all times relevant to the charges brought herein and will expire on January 31, 2016,
10 unless renewed.

11 **Smog Check Test Only Station License**

12 3. On or about March 16, 2012, the Bureau issued Smog Check Test Only Station
13 License Number TC 267623 ("station license") to Respondent Nguyen Nguyen. The station
14 license was in full force and effect at all times relevant to the charges brought herein and was to
15 expire on January 31, 2016, however was cancelled on January 4, 2016.

16 **Smog Check Licenses**

17 4. In or about 2003, the Director issued Advanced Emission Specialist Technician
18 License Number EA 146234 to Respondent Nguyen Nguyen. Respondent Nguyen Nguyen's
19 advanced emission specialist technician license was due to expire on June 30, 2013 however was
20 cancelled on June 17, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,
21 subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check
22 Inspector License EO 146234 and Smog Check Repair Technician License EI 146234.
23 Respondent Nguyen Nguyen's Smog Check Inspector License and Smog Check Repair
24 Technician License will expire on June 30, 2017, unless renewed.¹

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

1 5. In or about 2006, the Director issued Advanced Emission Specialist Technician
2 License Number EA 152659 to Binh-An Trinh Nguyen (Respondent Binh-An Nguyen).
3 Respondent Binh-An Nguyen's advanced emission specialist technician license was due to expire
4 on June 30, 2014, however was cancelled on June 12, 2014. Pursuant to California Code of
5 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
6 Respondent's election, as Smog Check Inspector License EO 152659 and Smog Check Repair
7 Technician License EI 152659. Respondent Binh-An Nguyen's Smog Check Inspector License
8 and Smog Check Repair Technician License will expire on June 30, 2016, unless renewed.

9 6. On or about May 16, 2012, the Director issued Advanced Emission Specialist
10 Technician License Number EA 634269 to Trung Minh Truong (Respondent Truong).
11 Respondent Truong's advanced emission specialist technician license was due to expire on
12 December 31, 2013, however was cancelled on December 19, 2013. Pursuant to California Code
13 of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
14 Respondent's election, as Smog Check Inspector License EO 634269 and Smog Check Repair
15 Technician License EI 634269. Respondent Truong's Smog Check Inspector License and Smog
16 Check Repair Technician License expired on December 31, 2015.

17 7. Respondents Nguyen Nguyen, Bihn-An Nguyen, and Troung shall be collectively
18 referred to as "Respondents."

19 **JURISDICTION**

20 8. This Accusation is brought before the Director of the Department of Consumer
21 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

22 **STATUTORY AND REGULATORY PROVISIONS**

23 9. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
24 part:

25 (a) The director, where the automotive repair dealer cannot show there was a bona fide
26 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair
27 dealer for any of the following acts or omissions related to the conduct of the business of the
28 automotive repair dealer, which are done by the automotive repair dealer or any automotive

1 technician, employee, partner, officer, or member of the automotive repair dealer.

2 (1) Making or authorizing in any manner or by any means whatever any statement written or
3 oral which is untrue or misleading, and which is known, or which by the exercise of reasonable
4 care should be known, to be untrue or misleading.

5 ...

6 (4) Any other conduct that constitutes fraud.

7 ...

8 (6) Failure in any material respect to comply with the provisions of this chapter or
9 regulations adopted pursuant to it.

10 ...

11 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
12 probation the registration for all places of business operated in this state by an automotive repair
13 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
14 and willful violations of this chapter, or regulations adopted pursuant to it.

15 10. Code section **9884.13** provides, in pertinent part, that the expiration of a valid
16 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
17 proceeding against an automotive repair dealer or to render a decision invalidating a registration
18 temporarily or permanently.

19 11. Section **44002** of the Health and Safety Code provides, in pertinent part, that the
20 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
21 the Motor Vehicle Inspection Program.

22 12. Section **44012** of the Health and Safety Code requires that tests at smog check
23 stations be performed in accordance with procedures prescribed by the department.

24 13. Section **44059** of the Health and Safety Code states, in pertinent part:

25 "The willful making of any false statement or entry with regard to a material matter in any
26 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
27 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
28 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code."

1 14. Section **44072.2** of the Health and Safety Code states, in pertinent part:

2 The director may suspend, revoke, or take other disciplinary action against a license as
3 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the
4 following:

5 (a) Violates any section of this chapter and the regulations adopted pursuant to it, which
6 related to the licensed activities.

7 ...
8 (c) Violates any of the regulations adopted by the director pursuant to this chapter.

9 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

10 ...
11 (h) Violates or attempts to violate the provisions of this chapter relating to the particular
12 activity for which he or she is licensed.

13 15. Section **44072.6** of the Health and Safety Code provides, in pertinent part, that the
14 expiration or suspension of a license by operation of law, or by order or decision of the Director
15 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
16 the Director of jurisdiction to proceed with disciplinary action.

17 16. Section **44072.8** of the Health and Safety Code states:

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

21 17. California Code of Regulations, title 16, section **3340.30**, states, in pertinent part:

22 A licensed smog check inspector and/or repair technician shall comply with the following
23 requirements at all times while licensed:

24 (a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
25 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
26 article.

27 ...
28 18. California Code of Regulations, title 16, section **3340.35(c)**, states, in pertinent part:

1 " . . .(c) A licensed station shall issue a certificate of compliance or noncompliance to the
2 owner or operator of any vehicle that has been inspected in accordance with the procedures
3 specified in section 3340.42 of this article and has all the required emission control equipment
4 and devices installed and functioning correctly.

5 . . .
6 19. California Code of Regulations, title 16, section **3340.41(c)**, states:

7 "No person shall enter into the emissions inspection system any vehicle identification
8 information or emission control system identification data for any vehicle other than the one being
9 tested. Nor shall any person knowingly enter into the emissions inspection system any false
10 information about the vehicle being tested."

11 20. California Code of Regulations, title 16, section **3340.42**, states, in pertinent part that
12 "Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
13 section 3340.45."

14 **COSTS**

15 21. Section **125.3** of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
19 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
20 included in a stipulated settlement.

21 **FACTUAL SUMMARY**

22 22. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring
23 the use of the On Board Diagnostic Inspection System (BAR-OIS) instead of the Emission
24 Inspection System (EIS) for testing of 2000 model year and newer gas powered vehicles 14,000
25 Gross Vehicle Weight Rating and under.

26 23. The new BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
27 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves On Board
28 Diagnostic-generation II (OBD II) data from the vehicle's OBD II computer. The DAD connects

1 the BAR OIS computer to the vehicle's diagnostic link connector (DLC). The bar code scanner is
2 used to input technician information, the vehicle identification number (VIN), and DMV renewal
3 information. The printer is used to print Vehicle Inspection Reports.

4 24. The VIN that is physically present on all vehicles is also required to be programmed
5 into the vehicle's OBD II computer on 2005 and newer vehicles, and on many occasions was
6 programmed into the OBD II computer in earlier model-years. This electronically programmed
7 VIN is referred to as the "eVIN" and is captured during a Smog Check. The eVIN must match the
8 physical VIN on the vehicle.

9 25. The OBD II communication protocol describes the specified communication
10 'language' used by the OBD II computer to communicate with the scan tools and other devices
11 such as the BAR-OIS. The communication protocol is programmed into the OBD II computer
12 during manufacture of the vehicle and does not change.

13 26. Parameter Identifications (PIDs) are data points reported by a vehicle's OBD II
14 system. Each make and model of vehicle reports a specific number of PIDs when it is being
15 tested by the BAR-OIS. The PIDs Count is the number of data points reported by the OBD II
16 system. The PIDs and PIDs Count are programmed during the manufacture of a vehicle and does
17 not change.

18 27. Data retrieved and recorded during a BAR-OIS smog inspection include the eVIN, the
19 communication protocol, and the PIDs Count. This information is transmitted to the vehicle
20 information data base during a smog inspection.

21 28. On or about July 7, 2015, the Bureau initiated an investigation of Respondent Nguyen
22 Nguyen's shop, King Smog Test Only. Beginning on or about April 30, 2015, and continuing
23 until about August 30, 2015, Respondents² were found to have performed 14 fraudulent smog
24 inspections using clean-plugging methods. Clean-plugging is the practice of testing one OBD II
25 system (a system that would pass the smog inspection), for the purpose of fraudulently issuing a
26 smog certificate of compliance to another vehicle that would not pass the smog inspection and/or

27 ² Respondent Binh-An Nguyen and Respondent Truong performed the smog tests on
28 behalf of Respondent Nguyen Nguyen.

1 is not present for testing. The vehicle receiving the certificate of compliance is not actually tested
2 by the DAD during the smog inspection.

3 29. A Bureau representative reviewed data for vehicles inspected by Respondent Binh-An
4 Nguyen and Respondent Truong and certified by Respondent Nguyen Nguyen. The data revealed
5 that the 14 vehicles that were purportedly tested by Respondents were not and could not have
6 been connected to the DAD when they were being certified because the OBD-II data purportedly
7 transmitted by those vehicles could not have been transmitted by those vehicles.

8 30. The PIDs Counts for the 14 vehicles purportedly being tested did not match the
9 expected PIDs counts for those vehicles. The eVINs were not present on any of the 14 vehicles
10 and the communication protocols were not what they should have been.

11 31. Respondent Binh-An Nguyen cleaned plugged ten (10) vehicles, resulting in the
12 issuance of 10 fraudulent Smog Check Certificates of Compliance. Respondent Truong cleaned
13 plugged four (4) vehicles, resulting in the issuance of 4 fraudulent Smog Check Certificates of
14 Compliance. The Vehicles were clean plugged as follows:

Clean Plug	Cert. #	eVIN	Protocol	PID Count
1	YR262956			
	Passing Inspection 4/30/2015	Not present	JPWM1850	20
	Expected Value ³	JM3LW28A450544066	ICAN1 1bt500	13/38
Clean Plug	Cert. #	eVIN	Protocol	PID Count
2	YR262962			
	Failed Inspection 4/20/15	2C3LA53G96H458225	ICAN1 1bt500	43
	Passing Inspection 5/1/15	Not present	JVPW1850	17
Clean Plug	Cert. #	eVIN	Protocol	PID Count
3	YR492227			
	Passing Inspection 5/16/15	Not present	I9140808	19
	Expected Value	5TBJU32196S464354	ICAN11bt500	46
Clean Plug	Cert. #	eVIN	Protocol	PID Count
4	YR492248			
	Passing Inspection	Not present	JVPW1850	20

27
28 ³ Expected value is the value recorded for "like vehicles" inspected.

		5/19/15		
1		Expected Value	1GCEC19027E538914	ICAN1 1bt500
2	Clean Plug 5	Cert. # YR613976	eVIN	7/44 PID Count
3		Passing Inspection 5/22/15	Not present	19140808 16
4		Expected Value	KL5JD56ZX5K122796	KWPF8FEF
5	Clean Plug 6	Cert. # YR613980	eVIN	21 or 1/21 PID Count
6		Passing Inspection 5/23/15	Not present	JVPW1850 17
7		Expected Value	2D4FV47T56H368880	ICAN1 1bt500
8	Clean Plug 7	Cert. # YR724415	eVIN	8/43 PID Count
9		Passing Inspection 5/30/15	Not present	19140808 16
10		Expected Value	JM1BK12G561523617	ICAN1 1bt500
11	Clean Plug 8	Cert. # YR724443	eVIN	39 PID Count
12		Passing Inspection 6/4/15	Not present	19140808 23
13		Expected Value	WVWAD63B05P030123	KWPS8FE9
14	Clean Plug 9	Cert. # YR906957	eVIN	18 or 1/18 PID Count
15		Passing Inspection 6/5/15	Not Present	JPWM1850 20
16		Expected Value	1ZVHT80N265159163	ICAN1 1bt500
17	Clean Plug 10	Cert. # YR906980	eVIN	47 PID Count
18		Passing Inspection 6/9/15	Not Present	JPWM1850 20
19		Expected Value	1FTYR10D17PA23211	ICAN1 1bt500
20	Clean Plug 11	Cert. # PU883451	eVIN	35 PID Count
21		Passing Inspection 8/14/15	Not Present	19140808 16
22		Expected Value	KMHEU46CX6A081851	KWPF
23	Clean Plug 12	Cert. # PU883471	eVIN	1/17 PID Count
24		Inspection 3/20/15	1FTPX145X5NA01849	ICAN1 1bt500
25		Passing Inspection 8/19/15	Not Present	44 JVPW1850 20
26		Expected Value	1FTPX145X5NA01849	ICAN1 1bt500
27	Clean Plug 13	Cert. # YV014093	eVIN	44 PID Count
28		Passing	Not Present	JVPW1850 20

	Inspection 8/29/15			
	Expected Value	1FTVX12565NB93314	ICAN1 1bt500	44
Clean Plug 14	Cert. # YV014100	eVIN	Protocol	PID Count
	Passing Inspection 8/30/15	Not Present	19140808	21
	Expected Value	4JGBB86E07A152414	ICAN1 1bt500	44

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements - Registration)

32. Respondent Nguyen Nguyen has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading, as set forth above in paragraphs 22-31. Respondents Bihn-An Nguyen and Truong fraudulently purported to test the 14 vehicles, and certified that the 14 vehicles passed inspection and were in compliance with applicable laws and regulations. In fact, Respondents conducted the inspections on those vehicles using clean-plugging methods.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Registration)

33. Respondent Nguyen Nguyen has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that he committed acts which constitute fraud, as set forth above in paragraphs 22-31.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program – Station License)

34. Respondent Nguyen Nguyen has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and applicable regulations, as set forth above in paragraphs 22-31, as follows:

a. **Section 44012:** Respondent Nguyen Nguyen failed to ensure that the emission control tests were performed on those vehicles in accordance with procedures prescribed by the department.

1 b. **Section 3340.24, subdivision (c):** Respondent Nguyen Nguyen falsely or
2 fraudulently issued electronic certificates of compliance for those vehicles without performing
3 bona fide inspections of the emission control devices and systems on the vehicles as required by
4 Health and Safety Code section 44012.

5 c. **Section 3340.35, subdivision (c):** Respondent Nguyen Nguyen issued electronic
6 certificates of compliance even though those vehicles had not been inspected in accordance with
7 section 3340.42.

8 d. **Section 3340.42:** Respondent Nguyen Nguyen failed to conduct the required smog
9 tests and inspections on those vehicles in accordance with the Bureau's specifications.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Dishonesty, Fraud or Deceit – Station License)**

12 35. Respondent Nguyen Nguyen subjected his station license to discipline under Health
13 and Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty,
14 fraud or deceit, whereby another was injured by issuing electronic certificates of compliance for
15 vehicles without performing bona fide inspections of the emission control devices and systems on
16 the vehicles, thereby depriving the People of the State of California of the protection afforded by
17 the Motor Vehicle Inspection Program, as set forth above in paragraph 22-31.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Violation of the Motor Vehicle Inspection Program – Smog Check Licenses)**

20 36. Respondent Nguyen Nguyen has subjected his Smog Check Inspector License and
21 Smog Check Repair Technician Licenses to discipline under Health and Safety Code section
22 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and applicable
23 regulations, as set forth above in paragraphs 22-31, as follows:

24 a. **Section 44012:** Respondent Nguyen Nguyen failed to ensure that the emission
25 control tests were performed on those vehicles in accordance with procedures prescribed by the
26 department.

27 b. **Section 3340.24, subdivision (c):** Respondent Nguyen Nguyen falsely or
28 fraudulently issued electronic certificates of compliance for those vehicles without performing

1 bona fide inspections of the emission control devices and systems on the vehicles as required by
2 Health and Safety Code section 44012.

3 c. **Section 3340.35, subdivision (c):** Respondent Nguyen Nguyen issued electronic
4 certificates of compliance even though those vehicles had not been inspected in accordance with
5 section 3340.42.

6 d. **Section 3340.42:** Respondent Nguyen Nguyen failed to conduct the required smog
7 tests and inspections on those vehicles in accordance with the Bureau's specifications.

8 SIXTH CAUSE FOR DISCIPLINE

9 (Dishonesty, Fraud or Deceit – Station License)

10 37. Respondent Nguyen Nguyen subjected his Smog Check Inspector and Smog Check
11 Repair Technician Licenses to discipline under Health and Safety Code section 44072.2,
12 subdivision (d), in that he committed acts involving dishonesty, fraud or deceit, whereby another
13 was injured by issuing electronic certificates of compliance for vehicles without performing bona
14 fide inspections of the emission control devices and systems on the vehicles, thereby depriving the
15 People of the State of California of the protection afforded by the Motor Vehicle Inspection
16 Program, as set forth above in paragraph 22-31.

17 SEVENTH CAUSE FOR DISCIPLINE

18 (Violations of the Motor Vehicle Inspection Program – Smog Check Licenses)

19 38. Respondent Bihn-An Nguyen has subjected his Smog Check licenses to discipline
20 under Health and Safety Code section 44072.2, subdivisions (a) and (c), in that he violated
21 sections of that Code and applicable regulations, as set forth above in paragraphs 22-31, as
22 follows:

23 a. **Section 44012:** Respondent Bihn-An Nguyen failed to ensure that the emission
24 control tests were performed on those vehicles in accordance with procedures prescribed by the
25 department.

26 b. **Section 44032:** Respondent Bihn-An Nguyen failed to ensure that the emission
27 control tests were performed on those vehicles in accordance with procedures prescribed by the
28 department.

1 c. **Section 44059:** Respondent Bihn-An Nguyen willfully made false entries for the
2 electronic certificates of compliance by certifying that those vehicles had been inspected as
3 required when, in fact, they had not.

4 d. **Section 3340.24, subdivision (c):** Respondent Bihn-An Nguyen falsely or
5 fraudulently issued electronic certificates of compliance for those vehicles without performing
6 bona fide inspections of the emission control devices and systems on the vehicles as required by
7 Health and Safety Code section 44012.

8 e. **Section 3340.30, subdivision (a):** Respondent Bihn-An Nguyen failed to inspect and
9 test those vehicles in accordance with Health and Safety Code section 44012.

10 f. **Section 3340.35, subdivision (c):** Respondent Bihn-An Nguyen issued electronic
11 certificates of compliance even though those vehicles had not been inspected in accordance with
12 section 3340.42.

13 g. **Section 3340.42:** Respondent Bihn-An Nguyen failed to conduct the required smog
14 tests and inspections on those vehicles in accordance with the Bureau's specifications.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud or Deceit – Smog Check Licenses)**

17 39. Respondent Bihn-An Nguyen subjected his Smog Check Licenses to discipline under
18 Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving
19 dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of
20 compliance for vehicles without performing bona fide inspections of the emission control devices
21 and systems on the vehicles, thereby depriving the People of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program, as set forth above in paragraphs 22-
23 31.

24 **NINTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program – Smog Check Licenses)**

26 40. Respondent Truong has subjected his Smog Check licenses to discipline under Health
27 and Safety Code section 44072.2, subdivisions (a) and (c), in that he violated sections of that
28 Code and applicable regulations, as set forth above in paragraphs 22-31, as follows:

1 a. **Section 44012:** Respondent Truong failed to ensure that the emission control tests
2 were performed on those vehicles in accordance with procedures prescribed by the department.

3 b. **Section 44032:** Respondent Truong issued electronic certificates of compliance for
4 those vehicles without ensuring that the vehicles were properly tested and inspected to determine
5 if they were in compliance with Health and Safety Code section 44012.

6 c. **Section 44059:** Respondent Truong willfully made false entries for the electronic
7 certificates of compliance by certifying that those vehicles had been inspected as required when,
8 in fact, they had not.

9 d. **Section 3340.24, subdivision (c):** Respondent Truong falsely or fraudulently issued
10 electronic certificates of compliance for those vehicles without performing bona fide inspections
11 of the emission control devices and systems on the vehicles as required by Health and Safety
12 Code section 44012.

13 e. **Section 3340.30, subdivision (a):** Respondent Truong failed to inspect and test those
14 vehicles in accordance with Health and Safety Code section 44012.

15 f. **Section 3340.35, subdivision (c):** Respondent Truong issued electronic certificates
16 of compliance even though those vehicles had not been inspected in accordance with section
17 3340.42.

18 g. **Section 3340.42:** Respondent Truong failed to conduct the required smog tests and
19 inspections on those vehicles in accordance with the Bureau's specifications.

20
21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud or Deceit – Smog Check Licenses)**

23 41. Respondent Truong subjected his Smog Check Licenses to discipline under Health
24 and Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty,
25 fraud or deceit, whereby another was injured by issuing electronic certificates of compliance for
26 vehicles without performing bona fide inspections of the emission control devices and systems on
27 the vehicles, thereby depriving the People of the State of California of the protection afforded by
28 the Motor Vehicle Inspection Program, as set forth above in paragraphs 22-31.

1 **OTHER MATTERS**

2 42. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
3 or place on probation the registration for all places of business operated in this state by
4 Respondent Nguyen Nguyen, upon a finding that Respondent Nguyen Nguyen has, or is, engaged
5 in a course of repeated and willful violations of the laws and regulations pertaining to an
6 automotive repair dealer.

7 43. Pursuant to Health & Safety Code section 44072.8, if Respondent Nguyen Nguyen's
8 Station License is revoked or suspended, any additional license issued under this chapter in the
9 name of said licensee may be likewise revoked or suspended by the director.

10 44. Pursuant to Health & Safety Code section 44072.8, if Respondent Binh-An Nguyen's
11 Smog Check Inspector License or Smog Check Repair Technician License is revoked or
12 suspended, any additional license issued under this chapter in the name of said licensee may be
13 likewise revoked or suspended by the director.

14 45. Pursuant to Health & Safety Code section 44072.8, if Respondent Truong's Smog
15 Check Inspector License or Smog Check Repair Technician License is revoked or suspended, any
16 additional license issued under this chapter in the name of said licensee may be likewise revoked
17 or suspended by the director.

18 **PRAYER**

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

- 21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
22 267623, issued to Nguyen Hoang Nguyen, doing business as King Smog Test Only;
- 23 2. Revoking or suspending Smog Check Test Only Station License Number TC
24 267623, issued to Nguyen Hoang Nguyen, doing business as King Smog Test Only;
- 25 3. Revoking or suspending Smog Check Inspector License EO 146234 and Smog
26 Check Repair Technician License EI 146234, issued to Nguyen Hoang Nguyen;
- 27
28

1 Revoking or suspending any additional Automotive Repair Dealer registration, Smog Check
2 Station, Smog Check Inspector, or Smog Check Repair Technician, issued to Nguyen Hoang
3 Nguyen;

4 4. Revoking or suspending Smog Check Inspector License EO 152659 and Smog
5 Check Repair Technician License EI 152659, issued to Binh-An Trinh Nguyen;

6 Revoking or suspending any additional Smog Check Station, Smog Check Inspector, or
7 Smog Check Repair Technician issued to Binh-An Trinh Nguyen;

8 5. Revoking or suspending Smog Check Inspector License EO 634269 and Smog
9 Check Repair Technician License EI 634269, issued to Trung Minh Truong;

10 6. Revoking or suspending any additional Smog Check Station, Smog Check
11 Inspector, or Smog Check Repair Technician issued to Trung Minh Truong;

12 7. Ordering Nguyen Hoang Nguyen to pay the Bureau of Automotive Repair the
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 125.3;

15 8. Ordering Binh-An Trinh Nguyen to pay the Bureau of Automotive Repair the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 9. Ordering Trung Minh Truong to pay the Bureau of Automotive Repair the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3;

21
22 10. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 1-28-16


25 PATRICK DORAIS
26 Chief
27 Bureau of Automotive Repair
28 Department of Consumer Affairs
State of California
Complainant