

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

In the Matter of the Accusation Against:

**TUONG DINH NGUYEN, Pres.**  
**dba, CARMEN AUTO CENTER, Inc.**  
256 Carmen Drive  
Camarillo, CA 93010

Automotive Repair Dealer License No.: ARD  
271366  
Smog Check Station License No.: RC 271366

and

**JASON AMES ENGLAND**  
190 Silver Fern Ct.  
Simi Valley, CA 93065

Smog Check Inspector License No.: EO 140143  
Smog Check Repair Technician License No.:  
140143

Respondents.

Case No.: 79/17-17041

OAH No.: 2018101018

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on April 24, 2019.

DATED: March 14, 2019

  
\_\_\_\_\_  
GRACE ARUPO RODRIGUEZ  
Assistant Deputy Director  
Legal Affairs Division  
Department of Consumer Affairs

1 XAVIER BECERRA  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
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Deputy Attorney General  
4 State Bar No. 223418  
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*Attorneys for Complainant*  
7

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. 79/17-17041

13 **TUONG DINH NGUYEN, President; dba**  
14 **CARMEN AUTO CENTER, INC.**

OAH No. 2018101018

15 256 Carmen Drive  
16 Camarillo, CA 93010

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17 Automotive Repair Dealer Registration No.  
18 ARD 271366  
19 Smog Check and Repair Station No. RC 271366

20 And

21 **JASON AMES ENGLAND**

22 190 Silver Fern Ct.  
23 Simi Valley, CA 93065

24 Smog Check Inspector License No. EO 140143  
25 Smog Check Repair Technician License No. EI  
26 140143

27 Respondents.  
28

29 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
30 entitled proceedings that the following matters are true:  
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32

1 PARTIES

2 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair  
3 (Bureau). He brought this action solely in his official capacity and is represented in this matter by  
4 Xavier Becerra, Attorney General of the State of California, by Heather Vo, Deputy Attorney  
5 General.

6 2. Tuong Dinh Nguyen, President; dba Carmen Auto Center, Inc., and Jason Ames  
7 England (Respondents) are represented in this proceeding by attorney Michael Levin, whose  
8 address is: 3727 Camino Del Rio South, Suite 200, San Diego, California 92108.

9 Automotive Repair Dealer Registration

10 3. On or about January 7, 2013, the Bureau issued Automotive Repair Dealer  
11 Registration No. ARD 271366 to Respondent Tuong Dinh Nguyen, President, dba Carmen Auto  
12 Center, Inc. (Respondent Carmen Auto Center). The Automotive Repair Dealer Registration was  
13 in full force and effect at all times relevant to the charges brought herein and will expire on  
14 January 31, 2020, unless renewed.

15 Smog Check and Repair Station

16 4. On or about January 16, 2013, the Bureau issued Smog Check and Repair Station  
17 License No. RC 271366 to Respondent Carmen Auto Center. The Smog Check and Repair  
18 Station License was in full force and effect at all times relevant to the charges brought herein and  
19 will expire on January 31, 2020, unless renewed.

20 STAR Certified Station

21 5. On or about February 13, 2013, the Bureau issued STAR Certification to Respondent  
22 Carmen Auto Center. The STAR Station Certification was in full force and effect at all times  
23 relevant to the charges brought herein and will remain active unless the ARD registration and/or  
24 the Smog Check Station license is revoked, cancelled, or the licenses become delinquent or  
25 certification is invalidated.

26 Smog Check Inspector (EO) and Smog Check Repair Technician (EI)

27 6. In 1998, Advanced Emission Specialist (EA) Technician License No. EA 140143 was  
28 issued to Jason Ames England (Respondent England) and was due to expire on July 31, 2012;

1 however, was cancelled on July 24, 2012. On or about July 24, 2012, the Bureau issued Smog  
2 Check Inspector License No. EO 140143 and Smog Check Repair Technician License No. EI  
3 140143 pursuant to Respondent England's election<sup>1</sup>. The Smog Check Inspector License (EO)  
4 and Smog Check Repair Technician License No. (EI) was in full force and effect at all times  
5 relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

6 **JURISDICTION**

7 7. Accusation No. 79/17-17041 was filed before the Director, and is currently pending  
8 against Respondents. The Accusation and all other statutorily required documents were properly  
9 served on Respondents on July 17, 2018; Respondents timely filed its Notice of Defense  
10 contesting the Accusation.

11 8. A copy of Accusation No. 79/17-17041 is attached as exhibit A and incorporated  
12 herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 9. Respondents have carefully read, fully discussed with counsel, and understand the  
15 charges and allegations in Accusation No. 79/17-17041. Respondents have also carefully read,  
16 fully discussed with counsel, and understand the effects of this Stipulated Settlement and  
17 Disciplinary Order.

18 10. Respondents are fully aware of their legal rights in this matter, including the right to a  
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
20 the witnesses against them; the right to present evidence and to testify on their own behalf; the  
21 right to the issuance of subpoenas to compel the attendance of witnesses and the production of  
22 documents; the right to reconsideration and court review of an adverse decision; and all other  
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 11. Respondents voluntarily, knowingly, and intelligently waive and give up each and  
25 every right set forth above.

26  
27 <sup>1</sup> Effective August 1, 2012, an Amendment to Sections 3340.28, 3340.29 and 3340.30, of  
28 Article 2, Chapter 1, Division 33, Title 16, CCR implemented a License restructure of Smog  
Check Technician (EA/EB) license types to Smog Check Inspector (EO) license and Smog Check  
Repair Technician (EI) license.

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CULPABILITY

12. Any admissions, be they general or specific, express or implied, do not constitute admissions for any other purpose or proceeding to which the California Department of Consumer Affairs ("DCA") and/or California Bureau of Automotive Repair ("BAR") is not a party, including third party civil, criminal or administrative proceedings.

13. Respondents agree that their Automotive Repair Dealer Registration, Smog Check Station License, Smog Check Inspector License, and Smog Check Repair Technician License are subject to discipline and they agree to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

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CONTINGENCY

14. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondents understand and agree that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw the agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

STIPULATED SETTLEMENT

In the Matter of the Accusation Against: Tuong Dinh Nguyen, President; dba Carmen Auto Center, Inc., and Jason Ames England (Case No. 79/17-17041)

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

3 17. In consideration of the foregoing admissions and stipulations, the parties agree that  
4 the Director may, without further notice or formal proceeding, issue and enter the following  
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 271366  
8 and Smog Check Station No. RC 271366 issued to Tuong Dinh Nguyen, President; dba Carmen  
9 Auto Center, Inc. is revoked. However, the revocation is stayed and Respondent is placed on  
10 probation for four (4) years with the following terms and conditions.

11 FURTHER, IT IS HEREBY ORDERED that Smog Check Inspector License No. EO  
12 140143 and Smog Check Repair Technician License No. EI 140143 issued to Jason Ames  
13 England is revoked. However, the revocation is stayed and Respondent is placed on probation for  
14 four (4) years with the following terms and conditions.

15 1. **Obey All Laws.** During the period of probation, Respondents shall comply with all  
16 federal and state statutes, regulations and rules governing all BAR registrations and licenses held  
17 by Respondents.

18 2. **Posting of Sign.** During the period of suspension, Respondents shall prominently  
19 post a sign or signs, provided by BAR, indicating the beginning and ending dates of the  
20 suspension and indicating the reason for the suspension. The sign or signs shall be conspicuously  
21 displayed in a location or locations open to and frequented by customers. The location(s) of the  
22 sign(s) shall be approved by BAR and shall remain posted during the entire period of actual  
23 suspension.

24 3. **Quarterly Reporting.** During the period of probation, Respondents shall report  
25 either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but  
26 no more frequently than once each calendar quarter, on the methods used and success achieved in  
27 maintaining compliance with the terms and conditions of probation.

1           4.    **Report Financial Interests.** Respondents shall, within 30 days of the effective date  
2 of the decision and within 30 days from the date of any request by BAR during the period of  
3 probation, report any financial interest which any Respondents or any partners, officers, or  
4 owners of any Respondents facility may have in any other business required to be registered  
5 pursuant to Section 9884.6 of the Business and Professions Code.

6           5.    **Access to Examine Vehicles and Records.** Respondents shall provide BAR  
7 representatives unrestricted access to examine all vehicles (including parts) undergoing service,  
8 inspection, or repairs, up to and including the point of completion. Respondents shall also provide  
9 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

10          6.    **Tolling of Probation.** If, during probation, Respondents leave the jurisdiction of  
11 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction  
12 of California, Respondents shall notify BAR in writing within 10 days of the dates of departure  
13 and return, and of the dates of cessation and resumption of business in California. All provisions  
14 of probation other than cost reimbursement requirements, restitution requirements, training  
15 requirements, and that Respondents obey all laws, shall be held in abeyance during any period of  
16 time of 30 days or more in which Respondents are not residing or engaging in business within the  
17 jurisdiction of California. All provisions of probation shall recommence on the effective date of  
18 resumption of business in California. Any period of time of 30 days or more in which  
19 Respondents are not residing or engaging in business within the jurisdiction of California shall  
20 not apply to the reduction of this probationary period or to any period of actual suspension not  
21 previously completed. Tolling is not available if business or work relevant to the probationary  
22 license or registration is conducted or performed during the tolling period.

23          7.    **Violation of Probation.** If Respondents violate or fail to comply with the terms and  
24 conditions of probation in any respect, the Director, after giving notice and opportunity to be  
25 heard may set aside the stay order and carry out the disciplinary order provided in the decision.  
26 Once Respondents are served notice of BAR's intent to set aside the stay, the Director shall  
27 maintain jurisdiction, and the period of probation shall be extended until final resolution of the  
28 matter.

1       8.    **Maintain Valid License.** Respondents shall, at all times while on probation,  
2 maintain a current and active registration and/or license(s) with BAR, including any period during  
3 which suspension or probation is tolled. If Respondents' registration or license is expired at the  
4 time the decision becomes effective, the registration or license must be renewed by Respondents  
5 within 30 days of that date. If Respondents' registration or license expires during a term of  
6 probation, by operation of law or otherwise, then upon renewal Respondents' registration or  
7 license shall be subject to any and all terms and conditions of probation not previously satisfied.  
8 Failure to maintain a current and active registration and/or license during the period of probation  
9 shall also constitute a violation of probation.

10       9.    **Cost Recovery.** Respondents shall pay the Bureau of Automotive Repair \$5,195.41  
11 for the reasonable costs of the investigation and enforcement of case No. 79/17-17041.  
12 Respondents Tuong Dinh Nguyen and Jason Ames England shall be jointly and severally  
13 responsible for the payment of these costs. Respondents shall be permitted to pay these costs in  
14 forty-two (42) equal monthly installments beginning on the effective date of the decision. Any  
15 agreement for a scheduled payment plan shall require full payment to be completed no later than  
16 six (6) months before probation terminates. Respondents shall make payment by check or money  
17 order payable to the Bureau of Automotive Repair and shall indicate on the check or money order  
18 that it is for cost recovery payment for case No. 79/17-17041. Any order for payment of cost  
19 recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate  
20 until full cost recovery payment has been made. BAR reserves the right to pursue any other  
21 lawful measures in collecting on the costs ordered and past due, in addition to taking action based  
22 upon the violation of probation.

23       10.   **Completion of Probation.** Upon successful completion of probation, Respondents'  
24 affected registration and licenses will be fully restored or issued without restriction, if  
25 Respondents meet all current requirements for registration or licensure and has paid all  
26 outstanding fees, monetary penalties, or cost recovery owed to BAR.



1           11. **License Surrender.** Following the effective date of a decision that orders a stay of  
2           invalidation or revocation, if Respondents cease business operations or is otherwise unable to  
3           satisfy the terms and conditions of probation, Respondents may request that the stay be vacated.  
4           Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right  
5           to evaluate the Respondents' request and to exercise discretion whether to grant the request or  
6           take any other action deemed appropriate or reasonable under the circumstances. Upon formal  
7           granting of the request, the Director will vacate the stay order and carry out the disciplinary order  
8           provided in the decision. Respondents may not petition the Director for reinstatement of the  
9           surrendered registration and licenses, or apply for a new registration or license under the  
10          jurisdiction of BAR at any time before the date of the originally scheduled completion of  
11          probation. If Respondents apply to BAR for a registration or license at any time after that date,  
12          Respondents must meet all current requirements for registration or licensure and pay all  
13          outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

14          12. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 271366 and  
15          Smog Check Station No. RC 271366 issued to Respondent Tuong Dinh Nguyen, President; dba  
16          Carmen Auto Center, Inc. is suspended for fifteen (15) consecutive days beginning on the  
17          effective date of the Decision and Order. Additionally, Smog Check Inspector License No. EO  
18          140143 and Smog Check Repair Technician License No. EI 140143 issued to Jason Ames  
19          England is suspended for fifteen (15) consecutive days beginning on the effective date of the  
20          Decision and Order.

21          13. **Training Course – Applicable to Respondent Jason Ames England only**

22          During the period of probation, Respondent Jason Ames England shall attend and  
23          successfully complete a BAR approved Level 1 – Engine and Emission Control Fundamentals  
24          training. Respondent shall provide to the Bureau proof of enrollment in the course within 30 days  
25          of the effective date of the decision, and proof of successful course completion within the first  
26          year of probation. Failure to provide proof of enrollment and/or successful course completion to  
27          the Bureau within the timeframes specified shall constitute a violation of probation, and  
28          Respondent shall be prohibited from issuing any certificate of compliance or noncompliance until

1 such proof is received.

2 ACCEPTANCE

3 We have carefully read the above Stipulated Settlement and Disciplinary Order and have  
4 fully discussed it with my attorney, Michael Levin. We understand the stipulation and the effect  
5 it will have on our Automotive Repair Dealer Registration, Smog Check Station License, Smog  
6 Check Inspector License, and Smog Check Repair Technician License. We enter into this  
7 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
8 to be bound by the Decision and Order of the Director of Consumer Affairs.

9  
10  
11 DATED: \_\_\_\_\_

*signature page attached*

12 **TUONG DINH NGUYEN, President; dba**  
13 **CARMEN AUTO CENTER, INC.**  
14 Automotive Repair Dealer Registration No. ARD 271366  
15 Smog Check Station No. RC 271366  
16 *Respondent*

17 DATED: \_\_\_\_\_

18 **JASON AMES ENGLAND**  
19 Smog Check Inspector License No. EO 140143  
20 Smog Check Repair Technician License No. EI 140143  
21 *Respondent*

22 I have read and fully discussed with Respondents Tuong Dinh Nguyen and Jason Ames  
23 England the terms and conditions and other matters contained in the above Stipulated Settlement  
24 and Disciplinary Order. I approve its form and content.

25  
26 DATED: \_\_\_\_\_


27 **MICHAEL LEVIN**  
28 *Attorney for Respondents*

1 such proof is received.

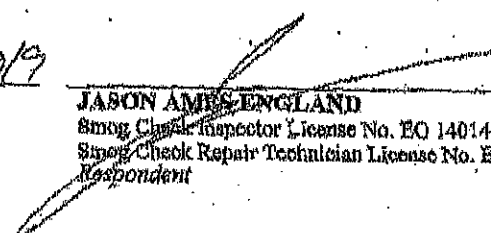
2 ACCEPTANCE

3 We have carefully read the above Stipulated Settlement and Disciplinary Order and have  
4 fully discussed it with my attorney, Michael Levin. We understand the stipulation and the effect  
5 it will have on our Automotive Repair Dealer Registration, Smog Check Station License, Smog  
6 Check Inspector License, and Smog Check Repair Technician License. We enter into this  
7 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
8 to be bound by the Decision and Order of the Director of Consumer Affairs.

9  
10  
11 DATED: 02-18-2019

  
12 TUONG DINH NGUYEN, President; dba  
13 CARMEN AUTO CENTER, INC.  
14 Automotive Repair Dealer Registration No. ARD 271366  
15 Smog Check Station No. RC 271366  
16 Respondant

17 DATED: 02-18-2019

  
18 JASON AMES ENGLAND  
19 Smog Check Inspector License No. EO 140143  
20 Smog Check Repair Technician License No. EI 140143  
21 Respondant

22 I have read and fully discussed with Respondents Tuong Dinh Nguyen and Jason Ames  
23 England the terms and conditions and other matters contained in the above Stipulated Settlement  
24 and Disciplinary Order. I approve its form and content.

25  
26 DATED: 2/18/2019

  
27 MICHAEL LEVIN  
28 Attorney for Respondants

STIPULATED SETTLEMENT  
In the Matter of the Accusation Against: Tuong Dinh Nguyen, President; dba Carmen Auto Center, Inc., and  
Jason Ames England (Case No. 79/17-17041)

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: *February 20, 2019*

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
THOMAS L. RINALDI  
Supervising Deputy Attorney General



HEATHER VO  
Deputy Attorney General  
*Attorneys for Complainant*

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1 XAVIER BECERRA  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 HEATHER VO  
Deputy Attorney General  
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8 **BEFORE THE**  
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
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12 In the Matter of the Accusation Against:

Case No. 79/17-17041

13 **TUONG DINH NGUYEN, President; dba**  
14 **CARMEN AUTO CENTER, INC.**  
256 Carmen Drive  
15 Camarillo, CA 93010

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

16 Automotive Repair Dealer Registration No.  
ARD 271366  
17 Smog Check Station No. RC 271366

18 And

19 **JASON AMES ENGLAND**  
190 Silver Fern Ct.  
20 Simi Valley, CA 93065

21 Smog Check Inspector License No. EO 140143  
22 Smog Check Repair Technician License No. EI  
140143

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as  
27 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.  
28

1           Automotive Repair Dealer Registration

2           2.     On or about January 7, 2013, the Bureau issued Automotive Repair Dealer  
3 Registration No. ARD 271366 to Respondent Tuong Dinh Nguyen, President, dba Carmen Auto  
4 Center, Inc. (Respondent Carmen Auto Center). The Automotive Repair Dealer Registration was  
5 in full force and effect at all times relevant to the charges brought herein and will expire on  
6 January 31, 2019, unless renewed.

7           Smog Check Station

8           3.     On or about January 16, 2013, the Bureau issued Smog Check Station License No.  
9 RC 271366 to Respondent Carmen Auto Center. The Smog Check Station License was in full  
10 force and effect at all times relevant to the charges brought herein and will expire on January 31,  
11 2019, unless renewed.

12           STAR Certified Station

13           4.     On or about February 13, 2013, the Bureau issued STAR Certification to Respondent  
14 Carmen Auto Center. The STAR Station Certification was in full force and effect at all times  
15 relevant to the charges brought herein and will remain active unless the ARD registration and/or  
16 the Smog Check Station license is revoked, cancelled, or the licenses become delinquent or  
17 certification is invalidated.

18           Smog Check Inspector (EO) and Smog Check Repair Technician (EI)

19           5.     In 1998, Advanced Emission Specialist (EA) Technician License No. EA 140143 was  
20 issued to Jason Ames England (Respondent England) and was due to expire on July 31, 2012;  
21 however, was cancelled on July 24, 2012. On or about July 24, 2012, the Bureau issued Smog  
22 Check Inspector License No. EO 140143 and Smog Check Repair Technician License No. EI  
23 140143 pursuant to Respondent England's election<sup>1</sup>. The Smog Check Inspector License (EO)  
24 and Smog Check Repair Technician License No. (EI) was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

26 \_\_\_\_\_  
27           <sup>1</sup> Effective August 1, 2012, an Amendment to Sections 3340.28, 3340.29 and 3340.30, of  
28 Article 2, Chapter 1, Division 33, Title 16, CCR implemented a License restructure of Smog  
Check Technician (EA/EB) license types to Smog Check Inspector (EO) license and Smog Check  
Repair Technician (EI) license.

1 JURISDICTION

2 6. This Accusation is brought before the Director of the Department of Consumer  
3 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

4 7. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
5 the Director may revoke an automotive repair dealer registration.

6 8. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
7 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
8 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
9 invalidating (suspending or revoking) a registration.

10 9. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
11 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
12 for enforcing the Motor Vehicle Inspection Program.

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

17 STATUTORY PROVISIONS

18 11. Bus. & Prof. Code section 9884.7 states, in pertinent part:

19 (a) The director, where the automotive repair dealer cannot show there  
20 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
21 permanently, the registration of an automotive repair dealer for any of the following  
22 acts or omissions related to the conduct of the business of the automotive repair  
23 dealer, which are done by the automotive repair dealer or any automotive technician,  
24 employee, partner, officer, or member of the automotive repair dealer.

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

28 . . . .

(4) Any other conduct that constitutes fraud.

. . . .

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

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

12. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

13. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

14. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section 40012.

15. Health & Saf. Code section 44072.2 states, in pertinent part:

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

....

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

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

16. Health & Saf. Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

17. Health & Saf. Code section 44072.10 states, in pertinent part:

....



1 (c) The department shall revoke the license of any smog check technician  
2 or station licensee who fraudulently certifies vehicles or participates in the fraudulent  
3 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
4 the following:

5 (4) Intentional or willful violation of this chapter or any regulation,  
6 standard, or procedure of the department implementing this chapter . . .

### 7 REGULATORY PROVISIONS

8 18. California Code of Regulations (CCR), title 16, section 3340.15, subdivision (h),  
9 prohibits a licensed smog check station from subletting inspections or repairs required as part of  
10 the Smog Check Program.

11 19. CCR, title 16, section 3340.24, subdivision (c); states:

12 "The bureau may suspend or revoke the license of or pursue other legal action against a  
13 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
14 certificate of noncompliance."

15 20. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician  
16 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section  
17 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42  
18 of this article."

19 21. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check  
20 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any  
21 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of  
22 this article and has all the required emission control equipment and devices installed and  
23 functioning correctly."

24 22. CCR, title 16, section 3340.41, subdivision (c), states that "[n]o person shall enter  
25 into the emissions inspection system any vehicle identification information or emission control  
26 system identification data for any vehicle other than the one being tested. Nor shall any person  
27 knowingly enter into the emissions inspection system any false information about the vehicle  
28 being tested."

1 23. CCR, title 16, section 3340.42, sets forth specific emissions test methods and  
2 procedures which apply to all vehicles inspected in the State of California.

3 **COST RECOVERY**

4 24. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
5 the administrative law judge to direct a licentiate found to have committed a violation or  
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
7 and enforcement of the case.

8 **VID DATA REVIEW**

9 25. On March 9, 2015, the Bureau implemented a policy change requiring the use of  
10 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas  
11 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer  
12 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in  
13 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in  
14 addition to communication protocol (the language used to communicate) and Parameter ID (PID)  
15 differences with vehicles that have been certified correctly that are the same make and model  
16 vehicles.

17 26. On or about October 12, 2017, Bureau representative Ian Evans initiated an  
18 investigation in which he reviewed OIS test data for Carmen Auto Center, Inc. Representative  
19 Evans' investigation revealed that the data related to certain vehicles certified by Carmen Auto  
20 Center, Inc. contained a pattern of unmistakable discrepancies between the information  
21 transmitted during the inspections and documented information known about the subject vehicles.  
22 Specifically, representative Evans compared the data received from the certified vehicles to data  
23 from vehicles of the same year, make, and model and determined that the data from at least five  
24 (5) of the certified vehicles contained the following unmistakable discrepancies: (1) incorrect  
25 eVIN; (2) incorrect vehicle communication protocols; and (3) incorrect PID counts. These  
26 documented discrepancies confirm that the vehicles receiving smog certificates from Carmen  
27 Auto Center Inc. were fraudulently tested during the smog inspection using the clean plugging  
28

1 method.<sup>2</sup> The following chart illustrates the documented clean plugging activities of  
 2 Respondents between September 3, 2015, to July 23, 2017.

Test Date	Vehicle Certified & License No.	Certificate No.	Details	OIS Test Data Details
3 4 5 <b>Vehicle #1</b> 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 9/3/2015	2005 Chevrolet Corvette Lic. 5SKP669 <sup>3</sup>	Cert. YV138099C	EO 140143 (Respondent England)	Comm. Protocol: Matched PID Count: 45/7/8 (expected: 43, or 43/7) eVIN: Incorrect
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 11/28/2015	2005 BMW 325 SULEV Lic. 5355KDP <sup>4</sup>	Cert. QA463062C	EO 140143 (Respondent England)	Comm. Protocol: KWPF (expected: I914) PID Count: 23 (expected: 22/8) eVIN: Incorrect

<sup>2</sup> Clean plugging refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

<sup>3</sup> This vehicle was previously tested at another smog check station on January 17, 2017. The OIS Test Detail for that test indicated a correct eVIN was transmitted, had the expected communication protocol as ICAN11bt5, and transmitted a PID count as 43/7, all as expected.

<sup>4</sup> This vehicle was subsequently tested at another smog check station on October 4, 2017. The OIS Test Detail for that test indicated a correct eVIN was transmitted, had the expected communication protocol as I914, and transmitted a PID count as 22/8, all as expected.

1 2 3 4 5	<b>Vehicle #3</b> 12/26/2015	2005 BMW M3 Lic. 5LRV027 <sup>5</sup>	Cert. QC130005C	EO 140143 (Respondent England)	Comm. Protocol: ICAN11bt5 (expected: I914)  PID Count: 46/14 (expected: 22, 23, 23/1, 24, or 24/1)  eVIN: Incorrect
6 7 8 9 10	<b>Vehicle #4</b> 9/12/2016	2006 Toyota Corolla CE/LE/S Lic. 5NUC454 <sup>6</sup>	Cert. ZJ835398C	EO 140143 (Respondent England)	Comm. Protocol: ICAN11bt5 (expected: I914)  PID Count: 46 (expected: 17, or 18)  eVIN: Incorrect
11 12 13 14 15 16	<b>Vehicle #5</b> 7/23/2017	2003 Ford Expedition XLT Lic. 5DVJ745 <sup>7</sup>	Cert. ZZ571064C	EO 140143 (Respondent England)	Comm. Protocol: ICAN11bt5 (expected: JPWM)  PID Count: 38 (expected: 22)  eVIN: Incorrect

17 27. The data analysis conducted on Respondent Carmen Auto Center's smog check  
18 between September 3, 2015, to July 23, 2017 shows that Respondent participated in a scheme to  
19 perform at least five (5) fraudulent smog check inspections resulting in the issuance of five (5)  
20 fraudulent electronic smog check certificates of compliance.

21  
22  
23 <sup>5</sup> This vehicle was previously tested at another smog check station on February 14, 2017.  
24 The OIS Test Detail for that test indicated a correct eVIN was transmitted, had the expected  
communication protocol as I914, and transmitted a PID count as 23/1, all as expected.

25 <sup>6</sup> This vehicle was previously tested at another smog check station on September 29, 2016.  
26 The OIS Test Detail for that test indicated a correct eVIN was transmitted, had the expected  
communication protocol as I914, and transmitted a PID count as 18, all as expected.

27 <sup>7</sup> This vehicle was previously tested at another smog check station on August 14, 2015.  
28 The OIS Test Detail for that test indicated a correct eVIN was transmitted, had the expected  
communication protocol as JPWM, and transmitted a PID count as 22, all as expected.



1 failed in a material respect to comply with the provisions of this chapter or regulations adopted  
2 pursuant to it when it issued electronic certificates of compliance for the 5 vehicles identified in  
3 paragraph 26 above, without performing bona fide inspections of the emission control devices  
4 and systems on those vehicles, thereby depriving the People of the State of California of the  
5 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this  
6 reference incorporates, the allegations contained in paragraphs 26 through 27, above, as though  
7 set forth fully herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violations of the Motor Vehicle Inspection Program)**

10 31. Respondent Carmen Auto Center's Smog Check Station License is subject to  
11 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that it  
12 failed to comply with the following sections of that Code:

13 a. **Section 44012:** Respondent Carmen Auto Center failed to ensure that the emission  
14 control tests were performed on the 5 vehicles identified in paragraph 26 above, in accordance  
15 with procedures prescribed by the department.

16 b. **Section 44015:** Respondent Carmen Auto Center issued electronic smog certificates  
17 of compliance for the 5 vehicles identified in paragraph 26 above, without ensuring that the  
18 vehicles were properly tested and inspected to determine if they were in compliance with Health  
19 & Saf. Code section 44012.

20 Complainant refers to, and by this reference incorporates, the allegations contained in  
21 paragraphs 26 through 27, above, as though set forth fully herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant**  
24 **to the Motor Vehicle Inspection Program)**

25 32. Respondent Carmen Auto Center's Smog Check Station License is subject to  
26 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that it  
27 failed to comply with provisions of California Code of Regulations, title 16, as follows:

1 a. **Section 3340.24, subdivision (c):** Respondent Carmen Auto Center falsely or  
2 fraudulently issued electronic smog certificates of compliance for the 5 vehicles identified in  
3 paragraph 26 above.

4 b. **Section 3340.35, subdivision (c):** Respondent Carmen Auto Center issued electronic  
5 smog certificates of compliance for the 5 vehicles identified in paragraph 26 above, even though  
6 the vehicles had not been inspected in accordance with section 3340.42.

7 c. **Section 3340.41, subdivision (c):** Respondent Carmen Auto Center knowingly  
8 entered false information into the emissions inspection system for the 5 vehicles identified in  
9 paragraph 26 above.

10 d. **Section 3340.42:** Respondent Carmen Auto Center failed to ensure that the required  
11 smog tests were conducted on the 5 vehicles identified in paragraph 26 above, in accordance with  
12 the Bureau's specifications.

13 Complainant refers to, and by this reference incorporates, the allegations contained in  
14 paragraphs 26 through 27, above, as though set forth fully herein.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud or Deceit)**

17 33. Respondent Carmen Auto Center's Smog Check Station License is subject to  
18 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that it  
19 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing  
20 electronic smog certificates of compliance for the 5 vehicles identified in paragraph 26 above,  
21 without performing bona fide inspections of the emission control devices and systems on the  
22 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
23 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the  
24 allegations contained in paragraphs 26 through 27, above, as though set forth fully herein.

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Violations of the Motor Vehicle Inspection Program)**

27 34. Respondent England's Smog Check Inspector License (EO) and Smog Check Repair  
28 Technician License (EI) are subject to disciplinary action pursuant to Health & Saf. Code section

1 44072.2, subdivision (a), in that he failed to comply with section 44012 of that Code in a material  
2 respect, as follows: Respondent failed to perform the emission control tests on 5 of the vehicles  
3 identified in paragraph 26 above, in accordance with procedures prescribed by the department.  
4 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs  
5 26 through 27, above, as though set forth fully herein.

6 **EIGHTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

8 35. Respondent England's Smog Check Inspector License (EO) and Smog Check Repair  
9 Technician License (EI) are subject to disciplinary action pursuant to Health & Saf. Code section  
10 44072.2, subdivision (c), in that he failed to comply with provisions of California Code of  
11 Regulations, title 16, as follows:

12 a. **Section 3340.24, subdivision (c)**: Respondent England falsely or fraudulently issued  
13 electronic smog certificates of compliance for 5 of the vehicles identified in paragraph 26 above.

14 b. **Section 3340.30, subdivision (a)**: Respondent England failed to inspect and test 5 of  
15 the vehicles identified in paragraph 26 above, in accordance with Health & Saf. Code sections  
16 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

17 c. **Section 3340.41, subdivision (c)**: Respondent England knowingly entered false  
18 information into the emissions inspection system for 5 of the vehicles identified in paragraph 26  
19 above.

20 d. **Section 3340.42**: Respondent England failed to conduct the required smog tests on 5  
21 of the vehicles identified in paragraph 26 above, in accordance with the Bureau's specifications.

22 Complainant refers to, and by this reference incorporates, the allegations contained in  
23 paragraphs 26 through 27, above, as though set forth fully herein.

24 **NINTH CAUSE FOR DISCIPLINE**

25 **(Dishonesty, Fraud or Deceit)**

26 36. Respondent England's Smog Check Inspector License (EO) and Smog Check Repair  
27 Technician License (EI) are subject to disciplinary action pursuant to Health & Saf. Code section  
28 44072.2, subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby



1 another was injured by issuing electronic smog certificates of compliance for 5 of the vehicles  
2 identified in paragraph 26 above, without performing bona fide inspections of the emission  
3 control devices and systems on the vehicles, thereby depriving the People of the State of  
4 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
5 refers to, and by this reference incorporates, the allegations contained in paragraphs 26 through  
6 27, above, as though set forth fully herein.

7 **PRIOR DISCIPLINARY ACTION**

8 37. On or about May 24, 2016, Citation #C2016-1112 was issued to Carmen Auto Center,  
9 Inc., Tuong Dinh Nguyen, President, for issuing a Certificate of Compliance to a vehicle using  
10 the BAR97 when an OBD Inspection System (OIS) was required. On June 10, 2016, a Citation  
11 Service Conference was held and the Citation was dismissed on July 11, 2016.

12 38. On or about May 24, 2016, Citation #M2016-1113 was issued to Jason Ames  
13 England for issuing a Certificate of Compliance to a vehicle using the BAR97 when an OBD  
14 Inspection System (OIS) was required. On June 20, 2016, a Citation Service Conference was  
15 held and the Citation was dismissed on August 2, 2016.

16 **OTHER MATTERS**

17 39. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the  
18 Director may suspend, revoke or place on probation the registration for all places of business  
19 operated in this state by Tuong Dinh Nguyen upon a finding that Tuong Dinh Nguyen has, or is,  
20 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
21 automotive repair dealer.

22 40. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License  
23 RC 271366, issued to Tuong Dinh Nguyen is revoked or suspended, any additional license issued  
24 under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said  
25 licensee may be likewise revoked or suspended by the Director.

26 41. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License  
27 No. EO 140143 and Smog Check Repair Technician License No. EI 140143 issued to James  
28 Ames England, is revoked or suspended, any additional license issued under Chapter 5 of Part 5

1 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise  
2 revoked or suspended by the Director.

3 **PRAYER**

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

6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
7 271366, issued to Carmen Auto Center, Inc., Tuong Dinh Nguyen, President;

8 2. Revoking or suspending any other automotive repair dealer registration issued to  
9 Carmen Auto Center, Inc., Tuong Dinh Nguyen, President;

10 3. Revoking or suspending Smog Check Station License Number RC 271366, issued to  
11 Respondent Carmen Auto Center, Inc., Tuong Dinh Nguyen, President;

12 4. Revoking or suspending any additional license under Chapter 5 of Part 5 of Division  
13 26 of the Health and Safety Code in the name of Carmen Auto Center, Inc., Tuong Dinh Nguyen,  
14 President;

15 5. Revoking or suspending Smog Check Inspector License No. EO 140143 issued to  
16 Respondent Jason Ames England;

17 6. Revoking or suspending Smog Check Repair Technician License No. EI 140143  
18 issued to Respondent Jason Ames England;

19 7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
20 Division 26 of the Health and Safety Code in the name of Jason Ames England;

21 8. Ordering Respondent Carmen Auto Center, Inc., Tuong Dinh Nguyen, President; and  
22 Respondent Jason Ames England to pay the Bureau of Automotive Repair the reasonable costs of  
23 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
24 125.3; and,

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9. Taking such other and further action as deemed necessary and proper.

DATED: July 6, 2018

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

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