

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar No. 200659  
1515 Clay Street, 20th Floor  
5 Post Office Box 70550  
Oakland, California 94612-0550  
6 Telephone: (510) 622-2143  
Facsimile: (510) 622-2270  
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:

13 **T N HI TECH AUTO CARE**  
**THIEN VAN NGUYEN, Owner**  
14 **135½ Keyes Street**  
**San Jose, California 95112**

15 **Automotive Repair Dealer Registration No.**  
**ARD202958**  
16 **Smog Check Station License No. RC202958**  
**Certified STAR Station**  
17 **Brake Station License No. BS202958, class A**  
**Lamp Station License No. LS202958, class A**

18 **STEVE NGUYEN (a.k.a. Thien Van Nguyen)**  
19 **135½ Keyes Street**  
**San Jose, California 95112**

20 **Brake Adjuster License No. BA95381, class A**  
21 **Lamp Adjuster License No. LA95381, class A**

22 **KHANH-VU VAN LUONG**  
23 **2819 Beecher Court**  
**San Jose, California 95121**

24 **Brake Adjuster License No. BA145082, class C**  
25 **Lamp Adjuster License No. LA145082, class A,**

26 Respondents.

27 ///

28

Case No. 79/16-39  
ACCUSATION  
Smog Check

1 Complainant Patrick Dorais alleges:

2 **I. PARTIES**

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

5 2. In 1998, the Bureau issued Automotive Repair Dealer Registration No.  
6 ARD 202958 to respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner. This  
7 automotive repair dealer registration was in full force and effect at all times relevant to the  
8 charges brought in this accusation and will expire on December 31, 2015, unless renewed.

9 3. On February 28, 1999, the Bureau issued Smog Check Station License No.  
10 RC 202958 to respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner. This smog check  
11 station license was in full force and effect at all times relevant to the charges brought in this  
12 accusation and will expire on December 31, 2015, unless renewed.

13 4. On March 13, 2014, the Bureau certified respondent T N Hi Tech Auto Care;  
14 Thien Van Nguyen, Owner; as a STAR Station.

15 5. On March 10, 1999, the Bureau issued Brake Station License No. BS 202958,  
16 class A, to respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner. This brake station  
17 license was in full force and effect at all times relevant to the charges brought in this accusation  
18 and will expire on December 31, 2015, unless renewed.

19 6. On March 10, 1999, the Bureau issued Lamp Station License No. LS 202958, class  
20 A, to respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner. This lamp station license  
21 was in full force and effect at all times relevant to the charges brought in this accusation and will  
22 expire on December 31, 2015, unless renewed.

23 7. In 1993, the Bureau issued Brake Adjuster License No. BA 95381, class A, to  
24 respondent Steve Nguyen (a.k.a. Thien Van Nguyen). This brake adjuster license was in full  
25 force and effect at all times relevant to the charges brought in this accusation and will expire on  
26 November 30, 2017, unless renewed.

27 8. In 1983, the Bureau issued Lamp Adjuster License No. LA 95381, class A, to  
28 respondent Steve Nguyen (a.k.a. Thien Van Nguyen). This lamp adjuster license was in full force

1 and effect at all times relevant to the charges brought in this accusation and will expire on  
2 November 30, 2018, unless renewed.

3 9. In 2002, the Bureau issued Brake Adjuster License No. BA 145082, class C, to  
4 respondent Khanh-Vu Van Luong. This lamp adjuster license was in full force and effect at all  
5 times relevant to the charges brought in this accusation and will expire on February 29, 2016,  
6 unless renewed.

7 10. In 2002, the Bureau issued Lamp Adjuster License No. LA 145082, class A, to  
8 respondent Khanh-Vu Van Luong. This lamp adjuster license was in full force and effect at all  
9 times relevant to the charges brought in this accusation and will expire on February 29, 2016,  
10 unless renewed.

## 11 II. JURISDICTION

12 11. This accusation is brought before the Director of Consumer Affairs (Director) for  
13 the Bureau under the authority of the following laws.

14 12. Business and Professions Code section 118, subdivision (b), states:

15 “The suspension, expiration, or forfeiture by operation of law of a license issued by a  
16 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
17 order of a court of law, or its surrender without the written consent of the board, shall not, during  
18 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
20 provided by law or to enter an order suspending or revoking the license or otherwise taking  
21 disciplinary action against the licensee on any such ground.”

22 13. Business and Professions Code section 9882, subdivision (a), states in part:

23 “There is in the Department of Consumer Affairs a Bureau of Automotive Repair under  
24 the supervision and control of the director. The duty of enforcing and administering this chapter  
25 is vested in the chief who is responsible to the director. The director may adopt and enforce those  
26 rules and regulations that he or she determines are reasonably necessary to carry out the purposes  
27 of this chapter and declaring the policy of the bureau, including a system for the issuance of  
28 citations for violations of this chapter as specified in Section 125.9.”

1           14.     Business and Professions Code section 9884.13 states:

2           “The expiration of a valid registration shall not deprive the director or chief of jurisdiction  
3 to proceed with any investigation or disciplinary proceeding against an automotive repair dealer  
4 or to render a decision invalidating a registration temporarily or permanently.”

5           15.     Business and Professions Code section 9884.22, subdivision (a), states:

6           “Notwithstanding any other provision of law, the director may revoke, suspend, or deny at  
7 any time any registration required by this article on any of the grounds for disciplinary action  
8 provided in this article. The proceedings under this article shall be conducted in accordance with  
9 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
10 Code, and the director shall have all the powers granted therein.”

11          16.     Business and Professions Code section 9889.1 states:

12          “Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the  
13 director. The director may refuse to issue a license to any applicant for the reasons set forth in  
14 Section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter  
15 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code,  
16 and the director shall have all the powers granted therein.”

17          17.     Business and Professions Code section 9889.3 states in part:

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

20           “(a) Violates any section of the Business and Professions Code that relates to his or her  
21 licensed activities.

22           ...

23           “(c) Violates any of the regulations promulgated by the director pursuant to this chapter.

24           ...

25           “(h) Violates or attempts to violate the provisions of this chapter relating to the particular  
26 activity for which he or she is licensed.”

27          18.     Health and Safety Code section 44072 states:

28          “Any license issued under this chapter and the regulations adopted pursuant to it may be

1 suspended or revoked by the director. The director may refuse to issue a license to any applicant  
2 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted  
3 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2  
4 of the Government Code, and the director shall have all the powers granted therein.”

5 19. Health and Safety Code section 44072.6 states:

6 “The expiration or suspension of a license by operation of law or by order or decision of  
7 the director or a court of law, or the voluntary surrender of a license by a licensee shall not  
8 deprive the director of jurisdiction to proceed with any investigation of, or action or disciplinary  
9 proceedings against, the licensee, or to render a decision suspending or revoking the license.”

### 10 III. STATUTORY AND REGULATORY PROVISIONS

11 20. Business and Professions Code section 9884.7, subdivision (a), states in part:

12 “The director, where the automotive repair dealer cannot show there was a bona fide error,  
13 may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer  
14 for any of the following acts or omissions related to the conduct of the business of the automotive  
15 repair dealer, which are done by the automotive repair dealer or any automotive technician,  
16 employee, partner, officer, or member of the automotive repair dealer.

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

20 ...

21 “(4) Any other conduct that constitutes fraud.

22 ...

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

25 21. Business and Professions Code section 9884.8 states in part:

26 “All work done by an automotive repair dealer, including all warranty work, shall be  
27 recorded on an invoice and shall describe all service work done and parts supplied. Service work  
28 and parts shall be listed separately on the invoice, which shall also state separately the subtotal

1 prices for service work and for parts, not including sales tax, and shall state separately the sales  
2 tax, if any, applicable to each.”

3 22. Business and Professions Code section 9884.9, subdivision (a), states in part:

4 “The automotive repair dealer shall give to the customer a written estimated price for  
5 labor and parts necessary for a specific job. No work shall be done and no charges shall accrue  
6 before authorization to proceed is obtained from the customer.”

7 23. Business and Professions Code section 9889.16 states:

8 “Whenever a licensed adjuster in a licensed station upon an inspection or after an  
9 adjustment, made in conformity with the instructions of the bureau, determines that the lamps or  
10 the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when  
11 requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form  
12 prescribed by the director, which certificate shall contain the date of issuance, the make and  
13 registration number of the vehicle, the name of the owner of the vehicle, and the official license  
14 of the station.”

15 24. Business and Professions Code section 17200 states:

16 “As used in this chapter, unfair competition shall mean and include any unlawful, unfair  
17 or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and  
18 any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the  
19 Business and Professions Code.”

20 25. Business and Professions Code section 17500 states:

21 “It is unlawful for any person, firm, corporation or association, or any employee thereof  
22 with intent directly or indirectly to dispose of real or personal property or to perform services,  
23 professional or otherwise, or anything of any nature whatsoever or to induce the public to enter  
24 into any obligation relating thereto, to make or disseminate or cause to be made or disseminated  
25 before the public in this state, or to make or disseminate or cause to be made or disseminated  
26 from this state before the public in any state, in any newspaper or other publication, or any  
27 advertising device, or by public outcry or proclamation, or in any other manner or means  
28 whatever, including over the Internet, any statement, concerning that real or personal property or

1 those services, professional or otherwise, or concerning any circumstance or matter of fact  
2 connected with the proposed performance or disposition thereof, which is untrue or misleading,  
3 and which is known, or which by the exercise of reasonable care should be known, to be untrue or  
4 misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so  
5 made or disseminated any such statement as part of a plan or scheme with the intent not to sell  
6 that personal property or those services, professional or otherwise, so advertised at the price  
7 stated therein, or as so advertised.”

8 26. California Code of Regulations, title 16, section 3305, subdivision (a), states:

9 “All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems for  
10 the purpose of issuing any certificate of compliance or adjustment shall be performed in official  
11 stations, by official adjusters, in accordance with the following, in descending order of  
12 precedence, as applicable:

13 “(1) Vehicle Manufacturers’ current standards, specifications and recommended  
14 procedures, as published in the manufacturers’ vehicle service and repair manuals.

15 “(2) Current standards, specifications, procedures, directives, manuals, bulletins and  
16 instructions issued by vehicle and equipment or device manufacturers.

17 “(3) Standards, specifications and recommended procedures found in current industry-  
18 standard reference manuals and periodicals published by nationally recognized repair information  
19 providers.

20 “(4) The bureau’s Handbook for Brake Adjusters and Stations, May 2015, which is hereby  
21 incorporated by reference.

22 “(5) The bureau’s Handbook for Lamp Adjusters and Stations, May 2015, which is hereby  
23 incorporated by reference.”

24 27. California Code of Regulations, title 16, section 3316, states in part:

25 “The operation of official lamp adjusting stations shall be subject to the following  
26 provisions:

27 . . .

28 “(d) Effective April 1, 1999, licensed stations shall purchase certificates of adjustment

1 from the bureau for a fee of three dollars and fifty cents (\$3.50) each and shall not purchase or  
2 otherwise obtain such certificates from any other source. Full payment is required at the time  
3 certificates are ordered. Certificates are not exchangeable following delivery. A licensed station  
4 shall not sell or otherwise transfer unused certificates of adjustment. Issuance of a lamp  
5 adjustment certificate shall be in accordance with the following provisions:

6 . . .

7 “(2) Where all of the lamps, lighting equipment, and related electrical systems on a  
8 vehicle have been inspected and found to be in compliance with all requirements of the Vehicle  
9 Code and bureau regulations, the certificate shall certify that the entire system meets all of those  
10 requirements.”

11 28. California Code of Regulations, title 16, section 3321, states in part:

12 “The operation of official brake adjusting stations shall be subject to the following  
13 provisions:

14 . . .

15 “(c) Effective April 1, 1999, licensed stations shall purchase certificates of adjustment  
16 from the bureau for a fee of three dollars and fifty cents (\$3.50) and shall not purchase or  
17 otherwise obtain such certificates from any other source. A licensed station shall not sell or  
18 otherwise transfer unused certificates of adjustment. Full payment is required at the time  
19 certificates are ordered. Certificates are not exchangeable following delivery. Issuance of a  
20 brake adjustment certificate shall be in accordance with the following provisions:

21 . . .

22 “(2) Where the entire brake system on any vehicle has been inspected or tested and found  
23 to be in compliance with all requirements of the Vehicle Code and bureau regulations, and the  
24 vehicle has been road-tested, the certificate shall certify that the entire system meets all such  
25 requirements.”

26 29. California Code of Regulations, title 16, section 3353, states in part:

27 “No work for compensation shall be commenced and no charges shall accrue without  
28 specific authorization from the customer in accordance with the following requirements:





1 indicators on the headlamp adjustment mechanisms, and installed defective license plate bulbs.  
2 The vehicle drove and operated normally; however, a brake or lamp certificate of adjustment may  
3 not be issued to this car with these documented conditions.

4 b. On February 11, 2014, a Bureau undercover operator drove the car to  
5 respondent T N Hi Tech. At the shop, the operator told respondent Khanh-Vu Van Luong  
6 (Luong) that he wanted a smog check,<sup>1</sup> and a brake and lamp inspection. Respondent Luong did  
7 not give a written estimate to the operator before he electronically inspected the car. He told the  
8 operator that he could not perform a smog check until the car had been driven enough to complete  
9 a computer check. The operator still asked for the brake and lamp inspection even without the  
10 smog check.

11 c. Respondent Luong gave a written estimate to the operator and put the car  
12 on a lift. Respondent Luong said that the license plate bulbs were burnt and gave the operator  
13 two bulbs to replace them.

14 d. Respondent Luong took the car off the lift about four minutes later. The  
15 operator did not see anyone remove the car's wheels or use a device to aim the car's headlamps.  
16 Respondent Luong said that the car passed the brake and lamp inspections. He said that the front  
17 brake rotors were low but he passed the brake inspection anyway.

18 e. After the services were completed, the operator paid \$90.00 and received  
19 brake and lamp certificates of adjustment, and an invoice. The certificates of adjustment were  
20 signed by respondent Luong. The invoice did not list the correct measurements for the rotor  
21 thicknesses, and did not list the subtotal prices for the brake and lamp inspections.

22 f. The Bureau representative re-inspected the car on February 12 to February  
23 13, 2014. The brake rotor thicknesses still were below specifications, the identification marks  
24 still were on the machined rotors, and all the tamper indicators on the wheels were intact. Both  
25 headlamps were still adjusted outside of specifications, and all the tamper indicators on the  
26 headlamp adjustment mechanisms were intact.

27  
28 <sup>1</sup> The Bureau representative documented the car so that it would pass a smog check.

1                                   **Third Cause for Discipline (T N High Tech)**  
2                                   **Failure to Properly Inspect Vehicle; Unfair Business Practices**  
3                                   **Business and Professions Code sections 9884.7, subdivision (a)(6), and 17200;**  
4                                   **California Code of Regulations, title 16, sections 3305, subdivision (a),**  
5                                   **3316, subdivision (d)(2), and 3321, subdivision (d)(2)**

6                   39.     The allegations of paragraph 38 are realleged and incorporated by reference as if  
7 fully set forth.

8                   40.     Respondent T N Hi Tech has subjected its ARD registration, smog check station  
9 license, STAR certification, brake station license, and lamp station license to discipline for failing  
10 to properly inspect a car for brake and lamp certifications, and for unfair business practices (Bus.  
11 & Prof. Code, §§ 9884.7, subd. (a)(6), 17200; Cal. Code Regs., tit. 16, §§ 3305, subd. (a), 3316,  
12 subd. (d)(2), 3321, subd. (c)(2)). After performing a brake and lamp inspection on the car and  
13 issuing brake and lamp certificates of adjustment, the brake rotor thicknesses still were below  
14 specifications, the identification marks still were on the machined rotors, and all the tamper  
15 indicators on the wheels were intact. Both headlamps still were adjusted outside of  
16 specifications, and all the tamper indicators on the headlamp adjustment mechanisms were intact.

17                                   **Fourth Cause for Discipline (T N High Tech)**  
18                                   **False and Misleading Statements and Records, Fraud**  
19                                   **Business and Professions Code sections 9884.7, subdivision (a)(1), (4) & (6), 9889.16, and**  
20                                   **17500;**  
21                                   **California Code of Regulations, title 16, section 3371, 3373**

22                   41.     The allegations of paragraph 38 are realleged and incorporated by reference as if  
23 fully set forth.

24                   42.     Respondent T N Hi Tech has subjected its ARD registration, smog check station  
25 license, STAR certification, brake station license, and lamp station license to discipline for  
26 making false and misleading statements and records, and fraud, for charging for and issuing brake  
27 and lamp certificates of adjustment to a car which was out of compliance and listing incorrect  
28 rotor measurements on an invoice (Bus. & Prof. Code, §§ 9884.7, subd. (a)(1), (4) & (6),  
9889.16, 17500; Cal. Code Regs., tit. 16, §§ 3371, 3373). Respondent T N Hi Tech charged for  
and issued a brake certificate of adjustment to the car which had brake rotor thicknesses below  
specifications, and charged for and issued a lamp certification of adjustment to a car which had  
both headlamps adjusted outside of specifications. It also did not list the correct measurements

1 for the rotor thicknesses on the invoice.

2 **Fifth Cause for Discipline (T N High Tech)**  
3 **Failure to Give Estimate Before Beginning Work**  
4 **Business and Professions Code sections 9884.7, subdivision (a)(6), and**  
5 **9884.9, subdivision (a)**

6 43. The allegations of paragraph 38 are realleged and incorporated by reference as if  
7 fully set forth.

8 44. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
9 license, STAR certification, brake station license, and lamp station license to discipline for failing  
10 to give an estimate before beginning work on the car (Bus. & Prof. Code, §§ 9884.7, subd. (a)(6),  
11 9884.9, subd. (a)). Respondent Luong did not give a written estimate to the operator before  
12 electronically inspecting the car.

13 **Sixth Cause for Discipline (T N High Tech)**  
14 **Failure to List Subtotal Prices on Invoice**  
15 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9884.8**

16 45. The allegations of paragraph 38 are realleged and incorporated by reference as if  
17 fully set forth.

18 46. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
19 license, STAR certification, brake station license, and lamp station license to discipline for failing  
20 to list the brake and lamp inspection subtotal prices on the invoice (Bus. & Prof. Code, §§ 9884.7,  
21 subd. (a)(6), 9884.8).

22 **Seventh Cause for Discipline (Luong)**  
23 **Failure to Properly Inspect Vehicle**  
24 **Business and Professions Code section sections 9884.7, subdivision (a)(6);**  
25 **California Code of Regulations, title 16, section 3305, subdivision (a)**

26 47. The allegations of paragraph 38 are realleged and incorporated by reference as if  
27 fully set forth.

28 48. Respondent Luong has subjected his brake adjuster license and lamp adjuster  
license to discipline for failing to properly perform a brake and lamp inspection (Bus. & Prof.  
Code, § 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, §§ 3305, subd. (a)). Respondent Leong  
issued brake and lamp certificates of adjustment without taking the wheels off the car, measuring

1 the brake rotor thicknesses, or measuring or adjusting the headlamps.

2 **Eighth Cause for Discipline (Luong)**  
3 **Issuing False Certificates of Adjustment**  
4 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9889.16**

4 49. The allegations of paragraph 38 are realleged and incorporated by reference as if  
5 fully set forth.

6 50. Respondent Luong has subjected his brake adjuster license and lamp adjuster  
7 license to discipline for issuing brake and lamp certificates of adjustment for a car which was out  
8 of compliance (Bus. & Prof. Code, § 9884.7, subd. (a)(6), 9889.16). Respondent Luong issued a  
9 brake certificate of adjustment to the car which had brake rotor thicknesses below specifications,  
10 and issued a lamp certification of adjustment to a car which had both headlamps adjusted outside  
11 of specifications.

12 **C. March 2014 Undercover Operation**

13 51. a. From February 27 through March 6, 2014, a Bureau representative  
14 inspected and documented a 1997 Toyota. As part of this documentation procedure, the  
15 representative machined a front brake rotor and a rear brake drum to thicknesses outside of  
16 specifications. He placed identification marks on the machined rotor and drum and installed  
17 tamper indicators on all the wheels. The representative also adjusted both headlamps outside of  
18 specifications and installed tamper indicators on the headlight adjustment mechanisms. The  
19 vehicle drove and operated normally; however, a brake or lamp certificate of adjustment may not  
20 be issued to this car with these documented conditions.

21 b. On March 19, 2014, a Bureau undercover operator drove the car to  
22 respondent T N Hi Tech. At the shop, the operator told respondent Luong that he wanted a smog  
23 check,<sup>2</sup> and a brake and lamp inspection. Respondent Luong did not give a written estimate to  
24 the operator before he electronically inspected the car. He told the operator that he could not  
25 perform the smog check or the inspections until the car was driven enough to complete a  
26 computer check. The operator left the shop, drove the car, returned, and asked a different

27 \_\_\_\_\_  
28 <sup>2</sup> The Bureau representative documented the car so that it would pass a smog check.

1 technician for a smog check, and a brake and lamp inspection. This technician did not give a  
2 written estimate to the operator before he electronically monitored the car. He told the operator  
3 that now he could perform the smog check and the inspections.

4 c. The technician gave the operator a blank work order to sign. After the  
5 operator signed it, the technician wrote in an estimated price of \$120.00 and gave a copy to the  
6 operator. The work order did not list the labor and parts necessary for a specific job.

7 d. The technician drove the car into the shop and performed a smog  
8 inspection. After about five minutes, he returned the car to the operator and said that it had  
9 passed the smog check, and the brake and lamp inspections. The operator did not see anyone  
10 drive the car away from the shop to road-test the brakes. Nor did he see anyone remove the car's  
11 wheels or use a device to aim the car's headlamps.

12 e. After the services were completed, the operator paid \$120.00 and received  
13 a smog check certificate, brake and lamp certificates of adjustment, and an invoice. The  
14 certificates of adjustment were signed by respondent Luong. The invoice did not list the subtotal  
15 prices for the brake and lamp inspections.

16 f. The Bureau representative re-inspected the car on March 26 to March 28,  
17 2014. The brake rotor and drum thicknesses still were outside of specifications. The  
18 identification marks on the rotor and drum, and all the tamper indicators on the wheels were  
19 intact. Both headlamps still were adjusted outside of specifications, and all the tamper indicators  
20 on the headlamp adjustment mechanisms were intact.

21 **Ninth Cause for Discipline (T N High Tech)**  
22 **Failure to Properly Inspect Vehicle; Unfair Business Practices**  
23 **Business and Professions Code sections 9884.7, subdivision (a)(6), and 17200;**  
24 **California Code of Regulations, title 16, sections 3305, subdivision (a),**  
25 **3316, subdivision (d)(2), and 3321, subdivision (d)(2)**

26 52. The allegations of paragraph 51 are realleged and incorporated by reference as if  
27 fully set forth.

28 53. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
license, STAR certification, brake station license, and lamp station license to discipline for failing  
to properly inspect a car for brake and lamp certifications, and for unfair business practices (Bus.

1 & Prof. Code, §§ 9884.7, subd. (a)(6), 17200; Cal. Code Regs., tit. 16, §§ 3305, subd. (a), 3316,  
2 subd. (d)(2), 3321, subd. (c)(2)). After performing a brake and lamp inspection on the car and  
3 issuing brake and lamp certificates of adjustment, the brake rotor and drum thicknesses still were  
4 outside of specifications, the identification marks still were on the machined rotor and drum, and  
5 all the tamper indicators on the wheels were intact. Both headlamps still were adjusted outside of  
6 specifications, and all the tamper indicators on the headlamp adjustment mechanisms were intact.

7 **Tenth Cause for Discipline (T N High Tech)**  
8 **False and Misleading Statements and Records, Fraud**  
9 **Business and Professions Code sections 9884.7, subdivision (a)(1), (4) & (6), 9889.16, and**  
10 **17500;**  
11 **California Code of Regulations, title 16, section 3371, 3373**

12 54. The allegations of paragraph 51 are realleged and incorporated by reference as if  
13 fully set forth.

14 55. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
15 license, STAR certification, brake station license, and lamp station license to discipline for  
16 making false and misleading statements and records, and fraud, for charging for and issuing brake  
17 and lamp certificates of adjustment to a car which was out of compliance (Bus. & Prof. Code, §§  
18 9884.7, subd. (a)(1), (4) & (6), 9889.16, 17500; Cal. Code Regs., tit. 16, §§ 3371, 3373).

19 Respondent T N Hi Tech issued a brake certificate of adjustment to the car which had a brake  
20 rotor and drum thickness outside of specifications, and issued a lamp certification of adjustment  
21 to a car which had both headlamps adjusted outside of specifications.

22 **Eleventh Cause for Discipline (T N High Tech)**  
23 **Failure to Give Estimate Before Beginning Work**  
24 **Business and Professions Code sections 9884.7, subdivision (a)(6), and**  
25 **9884.9, subdivision (a)**

26 56. The allegations of paragraph 51 are realleged and incorporated by reference as if  
27 fully set forth.

28 57. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
license, STAR certification, brake station license, and lamp station license to discipline for failing  
to give an estimate before beginning work on the car (Bus. & Prof. Code, §§ 9884.7, subd. (a)(6),  
9884.9, subd. (a)). The operator did not receive a written estimate before a technician

1 electronically monitored the car.

2 **Twelfth Cause for Discipline (T N High Tech)**  
3 **Failure to List Give Estimate Before Beginning Work**  
4 **Business and Professions Code sections 9884.7, subdivision (a)(6), and**  
5 **9884.9, subdivision (a)**

6 58. The allegations of paragraph 51 are realleged and incorporated by reference as if  
7 fully set forth.

8 59. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
9 license, STAR certification, brake station license, and lamp station license to discipline for failing  
10 to give an estimate of the labor and parts necessary for a specific job (Bus. & Prof. Code,  
11 §§ 9884.7, subd. (a)(6), 9884.9, subd. (a)).

12 **Thirteenth Cause for Discipline (T N High Tech)**  
13 **Failure to List Subtotal Prices on Invoice**  
14 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9884.8**

15 60. The allegations of paragraph 51 are realleged and incorporated by reference as if  
16 fully set forth.

17 61. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
18 license, STAR certification, brake station license, and lamp station license to discipline for failing  
19 to list the brake and lamp inspection subtotal prices on the invoice (Bus. & Prof. Code, §§ 9884.7,  
20 subd. (a)(6), 9884.8).

21 **Fourteenth Cause for Discipline (Luong)**  
22 **Failure to Properly Inspect Vehicle**  
23 **Business and Professions Code section sections 9884.7, subdivision (a)(6);**  
24 **California Code of Regulations, title 16, section 3305, subdivision (a)**

25 62. The allegations of paragraph 51 are realleged and incorporated by reference as if  
26 fully set forth.

27 63. Respondent Luong has subjected his brake adjuster license and lamp adjuster  
28 license to discipline for failing to properly perform a brake and lamp inspection (Bus. & Prof.  
Code, § 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, §§ 3305, subd. (a)). Respondent Luong  
issued brake and lamp certificates of adjustment without taking the wheels off the car, measuring  
the brake rotors or drums, or measuring or adjusting the headlamps.

1 **Fifteenth Cause for Discipline (Luong)**  
2 **Issuing False Certificates of Adjustment**  
3 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9889.16**

4 64. The allegations of paragraph 51 are realleged and incorporated by reference as if  
5 fully set forth.

6 65. Respondent Luong subjected his brake adjuster license and lamp adjuster license  
7 to discipline for issuing brake and lamp certificates of adjustment for a car which was out of  
8 compliance (Bus. & Prof. Code, § 9884.7, subd. (a)(6), 9889.16). Respondent Luong issued a  
9 brake certificate of adjustment to the car which had a brake rotor and drum thickness outside of  
10 specifications, and issued a lamp certification of adjustment to a car which had both headlamps  
11 adjusted outside of specifications.

12 **D. April 2014 Undercover Operation**

13 66. a. From March 5 through March 19, 2014, a Bureau representative inspected  
14 and documented a 2000 Toyota As part of this documentation procedure, the representative  
15 machined a front brake rotor and a rear brake drum to outside of specifications. He placed  
16 identification marks on the machined rotor and drum. He installed tamper indicators on all the  
17 wheels. The representative also adjusted one headlamp outside of specifications and installed  
18 tamper indicators on the headlight adjustment mechanisms. The vehicle drove and operated  
19 normally; however, a brake or lamp certificate of adjustment may not be issued to this car with  
20 these documented conditions.

21 b. On April 1, 2014, a Bureau undercover operator drove the car to  
22 respondent T N Hi Tech. At the shop, the operator told a technician that he wanted a smog  
23 check,<sup>3</sup> and a brake and lamp inspection.

24 c. The technician drove the car into the shop and performed a smog  
25 inspection. After about 10 minutes, the technician returned the car to the operator and said that it  
26 had passed the smog check, and the brake and lamp inspections. The operator did not see anyone  
27 drive the car away from the shop to road-test the brakes. Nor did the operator see anyone remove

28 <sup>3</sup> The Bureau representative documented the car so that it would pass a smog check.

1 the car's wheels or use a device to aim the car's headlights.

2 d. After the services were completed, the operator paid \$120.00 and received  
3 a smog certificate, brake and lamp certificates of adjustment, and an invoice. The certificates of  
4 adjustment were signed by respondent Luong. The invoice did not list the subtotal prices for the  
5 brake and lamp inspections.

6 e. The Bureau representative re-inspected the car on April 2 to April 3, 2014.  
7 The brake rotor and drum still were outside of specifications. The identification marks on the  
8 rotor and drum were present, and the all the tamper indicators on the wheels were intact. The  
9 headlamp was still adjusted outside of specifications, and all the tamper indicators on the  
10 headlight adjustment mechanisms were intact.

11 **Sixteenth Cause for Discipline (T N High Tech)**  
12 **Failure to Properly Inspect Vehicle; Unfair Business Practices**  
13 **Business and Professions Code sections 9884.7, subdivision (a)(6), and 17200;**  
14 **California Code of Regulations, title 16, sections 3305, subdivision (a),**  
15 **3316, subdivision (d)(2), and 3321, subdivision (d)(2)**

16 67. The allegations of paragraph 66 are realleged and incorporated by reference as if  
17 fully set forth.

18 68. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
19 license, STAR certification, brake station license, and lamp station license to discipline for failing  
20 to properly inspect a car for brake and lamp certifications, and for unfair business practices (Bus.  
21 & Prof. Code, §§ 9884.7, subd. (a)(6), 17200; Cal. Code Regs., tit. 16, §§ 3305, subd. (a), 3316,  
22 subd. (d)(2), 3321, subd. (c)(2)). After performing a brake and lamp inspection on the car and  
23 issuing brake and lamp certificates of adjustment, the brake rotor and drum thickness still were  
24 outside of specifications, the identification marks still were on the rotor and drum, and all the  
25 tamper indicators on the wheels were intact. The headlamp still was adjusted outside of  
26 specifications, and all the tamper indicators on the headlight adjustment mechanisms were intact.

27 **Seventeenth Cause for Discipline (T N High Tech)**  
28 **False and Misleading Statements and Records, Fraud**  
29 **Business and Professions Code sections 9884.7, subdivision (a)(1), (4) & (6), 9889.16, and**  
30 **17500;**  
31 **California Code of Regulations, title 16, section 3371, 3373**

32 69. The allegations of paragraph 66 are realleged and incorporated by reference as if

1 fully set forth.

2 70. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
3 license, STAR certification, brake station license, and lamp station license to discipline for  
4 making false and misleading statements and records, and fraud, for charging for and issuing brake  
5 and lamp certificates of adjustment to a car which was out of compliance (Bus. & Prof. Code, §§  
6 9884.7, subd. (a)(1), (4) & (6), 9889.16, 17500; Cal. Code Regs., tit. 16, §§ 3371, 3373).

7 Respondent T N Hi Tech issued a brake certificate of adjustment to the car which had a brake  
8 rotor and drum thickness outside of specifications, and issued a lamp certification of adjustment  
9 to a car which had a headlamp adjusted outside of specifications.

10 **Eighteenth Cause for Discipline (T N High Tech)**  
11 **Failure to List Subtotal Prices on Invoice**  
12 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9884.8**

13 71. The allegations of paragraph 66 are realleged and incorporated by reference as if  
14 fully set forth.

15 72. Respondent T N Hi Tech has subjected its ARD registration, smog check station  
16 license, STAR certification, brake station license, and lamp station license to discipline for failing  
17 to list the brake and lamp inspection subtotal prices on the invoice (Bus. & Prof. Code, §§ 9884.7,  
18 subd. (a)(6), 9884.8).

19 **Nineteenth Cause for Discipline (Luong)**  
20 **Failure to Properly Inspect Vehicle**  
21 **Business and Professions Code section sections 9884.7, subdivision (a)(6);**  
22 **California Code of Regulations, title 16, section 3305, subdivision (a)**

23 73. The allegations of paragraph 66 are realleged and incorporated by reference as if  
24 fully set forth.

25 74. Respondent Luong has subjected his brake adjuster license and lamp adjuster  
26 license to discipline for failing to properly perform a brake and lamp inspection (Bus. & Prof.  
27 Code, § 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, §§ 3305, subd. (a)). Respondent Luong  
28 issued brake and lamp certificates of adjustment without taking the wheels off the car, measuring  
the brake rotors, or measuring or adjusting the headlamps.

///

1 **Twentieth Cause for Discipline (Luong)**  
2 **Issuing False Certificates of Adjustment**  
3 **Business and Professions Code sections 9884.7, subdivision (a)(6), 9889.16**

4 75. The allegations of paragraph 66 are realleged and incorporated by reference as if  
5 fully set forth.

6 76. Respondent Luong has subjected his brake adjuster license and lamp adjuster  
7 license to discipline for issuing brake and lamp certificates of adjustment for a car which was out  
8 of compliance (Bus. & Prof. Code, § 9884.7, subd. (a)(6), 9889.16). Respondent Luong issued a  
9 brake certificate of adjustment to the car which had a brake rotor and drum thickness outside of  
10 specifications, and issued a lamp certification of adjustment to a car which had a headlamp  
11 adjusted outside of specifications.

12 **E. April 2014 Inspection**

13 77. On April 29, 2014, a Bureau representative conducted a field visit to respondent T  
14 N Hi Tech. During the visit, the investigator reviewed the copies of brake and lamp certificates  
15 of adjustment issued by the shop. The registered owner of the vehicle was not listed on some of  
16 the certificates.

17 **Twenty-first Cause for Discipline (T N Hi Tech)**  
18 **Failure to Properly Complete Certificates**  
19 **Business and Professions Code sections 9884.7, subdivision (a)(6), and 9889.16;**  
20 **California Code of Regulations, title 16, section 3305, subdivision (a)**

21 78. The allegations of paragraph 77 are realleged and incorporated by reference as if  
22 fully set forth.

23 79. Respondent T N Hi Tech Auto Care has subjected its ARD registration, smog  
24 check station license, STAR certification, brake station license, and lamp station license to  
25 discipline for failing to properly complete brake and lamp adjustment certificates of adjustment  
26 (Bus. & Prof. Code, §§ 9884.7, subd. (a)(6), 9889.16; Cal. Code Regs., tit. 16, § 3305, subd. (a)).  
27 The registered owner of the vehicle was not listed on some of the certificates.

28 **VI. OTHER MATTERS**

80. Business and Professions Code section 9884.7, subdivision (c), states in part:  
“Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation

1 the registration for all places of business operated in this state by an automotive repair dealer  
2 upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and  
3 willful violations of this chapter, or regulations adopted pursuant to it.”

4 81. Health and Safety Code section 44072.8 states:

5 “When a license has been revoked or suspended following a hearing under this article, any  
6 additional license issued under this chapter in the name of the licensee may be likewise revoked  
7 or suspended by the director.”

## 8 VII. PRAYER

9 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this  
10 accusation, and that following the hearing, the Director of Consumer Affairs issues a decision:

11 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 202958  
12 issued to respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner;

13 2. Revoking or suspending Smog Check Station License No. RC 202958 issued to  
14 respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner;

15 3. Revoking or suspending the STAR Station certification issued to respondent T N  
16 Hi Tech Auto Care; Thien Van Nguyen, Owner;

17 4. Revoking or suspending Brake Station License No. BS 202958, class A, issued to  
18 respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner;

19 5. Revoking or suspending Lamp Station License No. LS 202958, class A, issued to  
20 respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner;

21 6. Revoking or suspending Brake Adjuster License No. BA 95381, class A, issued to  
22 respondent Steve Nguyen (a.k.a. Thien Van Nguyen);

23 7. Revoking or suspending Lamp Adjuster License No. LA 95381, class A, issued to  
24 respondent Steve Nguyen (a.k.a. Thien Van Nguyen);

25 8. Revoking or suspending Brake Adjuster License No. BA 145082, class C, issued  
26 to respondent Khanh-Vu Van Luong;

27 9. Revoking or suspending Lamp Adjuster License No. LA 145082, class A, issued  
28 to respondent Khanh-Vu Van Luong;

1           10.     Ordering respondent T N Hi Tech Auto Care; Thien Van Nguyen, Owner; under  
2 Business and Professions Code section 125.3 to pay the Bureau of Automotive Repair the  
3 reasonable costs of the investigation and enforcement of this case;

4           11.     Ordering respondent respondent Steve Nguyen (a.k.a. Thien Van Nguyen) under  
5 Business and Professions Code section 125.3 to pay the Bureau of Automotive Repair the  
6 reasonable costs of the investigation and enforcement of this case;

7           12.     Ordering respondent Khanh-Vu Van Luong under Business and Professions Code  
8 section 125.3 to pay the Bureau of Automotive Repair the reasonable costs of the investigation  
9 and enforcement of this case; and

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

11 DATED: *October 20, 2015*     *Patrick Dorais*

12 PATRICK DORAIS  
13 Chief  
14 Bureau of Automotive Repair  
15 Department of Consumer Affairs  
16 State of California  
17 *Complainant*

18 SF2014902739  
19 90451922.doc  
20  
21  
22  
23  
24  
25  
26  
27  
28