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

In the Matter of the Accusation Against: **BRYANT AUTO REPAIR** **PHUOC THANH PHAM, Owner** **5337 International Blvd.** **Oakland, California 94601** **Automotive Repair Dealer Registration No. ARD222956** **Smog Check Station License No. RC222956** **PHUOC THANH PHAM** **5337 International Blvd.** **Oakland, California 94601** **Other address: P.O. Box 4671** **Oakland, California 94605** **Advanced Emission Specialist Technician License No. EA044647** Respondents.	Case No. 79/12-21 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 28, 2011, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/12-21 against Bryant Auto Repair and Phuoc Thanh Pham (Respondents) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On a date uncertain in 2002, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD222956 to Phuoc Thanh Pham, doing business as Bryant Auto Repair (hereinafter referred to as "Bryant Auto Repair or "Respondent Bryant Auto Repair. The Automotive Repair Dealer Registration was in full force and effect at all times

relevant to the charges brought in Accusation No. 79/12-21 and will expire on July 31, 2012, unless renewed.

3. On or about September 5, 2002, the Bureau of Automotive Repair issued Smog Check Station License No. RC222956 to Respondent Bryant Auto Repair. The Smog Check Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/12-21 and will expire on July 31, 2012, unless renewed.

4. On a date uncertain in 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License No. EA044647 to Phuoc Thanh Pham (hereinafter referred to "Phuoc Pham" or "Respondent Pham"). The Advanced Emission Specialist Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/12-21 and will expire on May 31, 2013, unless renewed.

5. On or about October 5, 2011, Respondent Bryant Auto Repair was served by Certified and First Class Mail copies of Accusation No. 79/12-21, Statement to Respondent, Notice of Defense form (2 copies), Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent Bryant Auto Repair's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau, which was and is 5337 International Blvd, Oakland, California 94601.

6. On or about October 5, 2011, Respondent Pham was served by Certified and First Class Mail copies of Accusation No. 79/12-21, Statement to Respondent, Notice of Defense form (2 copies), Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent Pham's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau, which was and is P.O. Box 4671, Oakland, California 94605.

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

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8. On or about October 11, 2011, the aforementioned documents were delivered to Respondent Pham. On or about October 17, 2011, the aforementioned documents were delivered to Respondent Bryant Auto Repair.

9. Government Code section 11506 states, in pertinent part:

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

10. Respondent failed to file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No. 79/12-21.

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

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

12. Pursuant to its authority under Government Code section 11520, the Director after having reviewed the proofs of service dated October 5, 2011, signed by Joy V. Hanek, and USPS Track & Confirm Notices finds Respondents are in default. The Director will take action without further hearing and, based on Accusation, No. 79/12-21, proofs of service and on the Affidavit of Bureau Representative Joseph Cheung, finds that the allegations in Accusation are true.

13. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is $12,665.00 as of November 10, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Bryant Auto Repair has subjected its Automotive Repair Dealer Registration No. ARD222956 and its Smog Check Station License No. RC222956 to discipline.

2. Based on the foregoing findings of fact, Respondent Pham has subjected his Advanced Emission Specialist License No. EA044647 to discipline.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Director of Consumer Affairs is authorized to revoke Respondent Bryant Auto Repair's Automotive Repair Dealer Registration and Smog Check Station License, and Respondent Pham's Advanced Emission Specialist License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the affidavit of Bureau Representative Joseph Cheung in this case:

a. Respondent Bryant Auto Repair subjected his registration to discipline under Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about November 30, 2010 through April 12, 2011, he made misleading statements by certifying that 24 vehicles had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Bryant Auto Repair conducted the inspections on those vehicles using clean plugging methods by substituting or using different vehicles during the OBD II functional tests in order to issue smog certificates of compliance.

b. Respondent Bryant Auto Repair subjected his registration to discipline under Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that on or about November 30, 2010 through April 12, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance to the 24 vehicles, referred to above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

c. Respondent Bryant Auto Repair subjected his station license to discipline under Health & Safety Code section 44072.2, subdivision (a), in that on or about November 30, 2010 through April 12, 2011, regarding the 24 vehicles, referred to above, he violated Health & Safety Code sections 44012, 44015, and 44059.

d. Respondent Bryant Auto Repair subjected his station license to discipline under Health & Safety Code section 44072.2, subdivision (c), in that on or about November 30, 2010

through April 12, 2011, regarding the 24 vehicles, referred to above, he violated California Code of Regulations, Title 16, sections 3340.24, 3340.35, and 3340.42.

e. Respondent Bryant Auto Repair subjected his station license to discipline under Health & Safety Code section 44072.2, subdivision (d), in that on or about November 30, 2010 through April 12, 2011, regarding the 24 vehicles referred to above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

f. Respondent Pham subjected his technician license to discipline under Health & Safety Code section 44072.2, subdivision (a), in that on or about November 30, 2010 through April 12, 2011, he failed to comply with Section 44012 of that Code in a material respect by failing to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

g. Respondent Pham subjected his technician license to discipline under Health & Safety Code section 44072.2, subdivision (c), in that on or about November 30, 2010 through April 12, 2011, he violated California Code of Regulations, Title 16, sections 3340.24, 3340.30, and 3340.42.

h. Respondent Pham subjected his technician license to discipline under Health & Safety Code section 44072.2, subdivision (d), in that on or about November 30, 2010 through April 12, 2011, regarding the 24 vehicles referred to above, he committed acts involving dishonestry, fraud or deceit whereby another was injured by issuing electronic certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD222956 and Smog Check Station License No. RC222956, heretofore issued to Respondent Bryant Auto Repair, is revoked.

IT IS SO ORDERED that Advanced Emission Specialist Technician License No. EA044647, heretofore issued to Respondent Pham, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: Tim Corcoran, 10220 Systems Parkway, Sacramento, CA 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on 1/23/12.

It is so ORDERED December 15, 2011

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

default decision_LIC.rtf
DOJ Matter ID:SF2011202412

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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In the Matter of the Accusation Against: **BRYANT AUTO REPAIR** **PHUOC THANH PHAM, Owner** **5337 International Blvd.** **Oakland, California 94601** **Automotive Repair Dealer Registration No. ARD222956** **Smog Check Station License No. RC222956** **PHUOC THANH PHAM** **5337 International Blvd.** **Oakland, California 94601** **Other address: P.O. Box 4671** **Oakland, California 94605** **Advanced Emission Specialist Technician License No. EA044647** Respondents.	Case No. 79/12-21 **ACCUSATION** SMOG CHECK

Complainant alleges:

PARTIES

1. Sherry Mehl (Complainant) brings this Accusation solely in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

2. On a date uncertain in 2002, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD222956 to Phuoc Thanh Pham, doing business as Bryant Auto Repair (hereinafter referred to as "Bryant Auto Repair" or "Respondent

Bryant Auto Repair"). The Bryant Auto Repair Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in the Accusation, and will expire on July 31, 2012, unless renewed. On or about September 5, 2002, the Director issued Smog Check Station License Number RC222956 to Phuoc Thanh Pham, doing business as Bryant Auto Repair (hereinafter referred to as "Bryant Auto Repair" or "Respondent Bryant Auto Repair"). The Smog Check Station License was in full force and effect at all times relevant to the charges brought in the Accusation, and will expire on July 31, 2012, unless renewed.

3. On a date uncertain in 2003, the Director issued Advanced Emission Specialist Technician License Number EA044647 to Phuoc Thanh Pham (hereinafter referred to as "Phuoc Pham" or "Respondent Pham"). Phuoc Pham's Advanced Emission Specialist Technician License was in full force and effect at all times relevant to the charges brought in the Accusation, and will expire on May 31, 2013, unless renewed.

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
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> . . . .
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> (4) Any other conduct that constitutes fraud.
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> . . . .
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> (b) Except as provided for in subdivision (b), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

(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.

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

6. 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 Code.

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

8. Section 44072.2 of the Health and Safety Code 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 . . .

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

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10. Section 44072.8 of the Health and Safety Code states:

"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."

COST RECOVERY

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

FACTUAL BACKGROUND

12. On or about March 14, 2011, the Bureau conducted a detailed review of the Vehicle Information Database ("VID") for all smog inspections performed at Respondent Bryant Auto Repair's facility located in Oakland, California, for the period **November 30, 2010 through May 27, 2011**. The VID showed a pattern of various random diagnostic trouble codes stored in the memory of the power train control module ("PCM") on different vehicles. Vehicles 1 through 24, set forth in Table 1, below, were all certified with various pending codes stored in the PCM memory while the original equipment manufacturer ("OEM") service information shows these vehicles do not support the pending codes stored in the PCM memory. The vehicles receiving smog certificates were not tested during the OBD II[1] functional test and another vehicle was used, constituting clean plugging. All of the following inspections were performed by Respondent Pham.

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[1] The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II functional test, it will fail the overall inspection.

Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle that is not in compliance due to a failure to complete the minimum number of self tests, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

TABLE 1

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.
1. 11/30/2010 1640 – 1652 hours	1996 Nissan 200SX, WA License No. 418RHG	NY193228C
2. 12/2/2010 1556 – 1614 hours	1999 Mitsubishi Galant, License No.4UQR156	NY193230C
3. 12/13/2010 1106 – 1202 hours	1998 Toyota Corolla, License No. 3XTN710	NY193239C
4. 12/18/2010 1415 – 1428 hours	2002 Suburu Impreza AWD, License No. 5FEH171	NY193248C
5. 12/21/2010 1025 – 1117 hours	2005 Lexus RX 330, No License Plate, VIN 2T2GA31U65C029803	NY193250C
6. 12/22/2010 1146 –1213 hours	2000 Ford F150 Reg Cab Long, No License Plate, VIN 1FTRF07W5YKB04922	WR077254C
7. 12/27/2010 1154 – 1216 hours	2000 Toyota Tacoma 2WD, License No. 6E33167	WR077256C
8. 12/28/2010 1406 – 1421 hours	2000 Toyota Sienna, License No. 5FYS522	WR077257C
9. 1/3/2011 1514 – 1541 hours	1998 Dodge Stratus, License No. 3VRG905	WR077265C
10. 1/12/2011 1532 – 1558 hours	2005 Chysler 300, License No. 5LXF994	WR077269C
11. 1/15/2011 1400- 1428 hours	2001 Nissan Pathfinder, License No. 5DQB695	WR077275C
12. 2/15/2011 1433 – 1438 hours	2001 GMC Sierra 1500 4WD, License No. 6X71882	OA516654C
13. 2/15/2011 1455 – 1535 hours	2001 Ford Explorer 4DR, License No. 6G34372	OA516655C
14. 2/15/2011 1612. – 1626 hours	2000 Pontiac Grand Prix, License No. 4HQZ393	OA516656C
15. 12/8/2010 1407 – 1438 hours	2000 Mitsubishi Mirage, License No. 6KXB526	NY193235C
16. 3/5/2011 1423 – 1443 hours	1998 Chevrolet Astro, License No. 4XID340	OA516671C
17. 3/7/2011 1302 – 1317 hours	2001 Nissan Quest, License No. 4TTD640	OA516672C
18. 3/7/2011 1329 – 1410 hours	2000 Plymouth Voyager 2WD, License No. 4HGY573	OA516673C
19. 3/9/2011 1733 – 1755 hours	1996 Buick Century, License No. 5CKY147	OA516675C
20. 3/10/2011 1514 – 1531 hours	2003 Chevrolet Trailblazer EXT 2WD, License No. 5NDH948	OA516676C
21. 3/12/2011 1356 – 1500 hours	2000 Nissan Maxima, License No. 5YMA410	OA516679C
22. 3/16/2011 1335 – 1340 hours	1998 Toyota 4Runner, License No. 4APU006	OA516686C
23. 3/30/2011 1438 – 1459 hours	2001 GMC C3500 Sierra, License No. 6N92024	OA516699C
24. 4/12/2011 1128 – 1152 hours	2003 K1500 Ksuburan 4WD, License No. 5GSF524	OC231606C

FIRST CAUSE FOR DISCIPLINARY ACTION

(Misleading Statements)

13. Respondent Bryant Auto Repair, has subjected his registration to disciplinary action under Business and Professions Code section 9884.7, subdivision (a)(1), in that on or about November 30, 2010 through April 12, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading as follows: Respondent Bryant Auto Repair certified that vehicles 1 through 24, set forth in Table 1, above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Bryant Auto Repair conducted the inspections on those vehicles using clean plugging methods by substituting or using different vehicles during the OBD II functional tests in order to issue smog certificates of compliance.

SECOND CAUSE FOR DISCIPLINARY ACTION

(Fraud)

14. Respondent Bryant Auto Repair has subjected his registration to disciplinary action under Business and Professions Code section 9884.7, subdivision (a)(4), by in that on or about November 30, 2010, through April 12, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through 24, identified in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINARY ACTION

(Violation of the Motor Vehicle Inspection Program)

15. Respondent Bryant Auto Repair has subjected his station license to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that on or about November 30, 2010, through April 12, 2011, regarding vehicles 1 through 24, identified in Table 1, above, he violated the sections of the Code, as follows:

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

b. **Section 44015**: Respondent Bryant Auto Repair issued electronic certificates of compliance for those vehicles without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

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

FOURTH CAUSE FOR DISCIPLINARY ACTION

(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

16. Respondent Bryant Auto Repair has subjected his station license to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that on or about November 30, 2010, through April 12, 2011, regarding vehicles 1 through 24, identified in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

b. **Section 3340.35, subdivision (c)**: Respondent Bryant Auto Repair issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

c. **Section 3340.42**: Respondent Bryant Auto Repair failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINARY ACTION

(Dishonesty, Fraud or Deceit)

17. Respondent Bryant Auto Repair has subjected his station license to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that on or about

November 30, 2010, through April 12, 2011, regarding vehicles 1 through 24, set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and system on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINARY ACTION

(Violations of the Motor Vehicle Inspection Program)

18. Respondent Pham has subjected his technician license to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that on or about November 30, 2010, through April 12, 2011, regarding vehicles 1 through 24, identified in Table 1, above, Respondent Pham failed to comply with section 44012 of that Code in a material respect, as follows: Respondent Pham failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

SEVENTH CAUSE FOR DISCIPLINARY ACTION

(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

19. Respondent Pham has subjected his technician license to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that on or about November 30, 2010, through April 12, 2011, vehicles 1 through 24, identified in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

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

EIGHTH CAUSE FOR DISCIPLINARY ACTION

(Dishonesty, Fraud or Deceit)

20. Respondent Pham has subjected his technician license to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that on or about November 30, 2010, through April 12, 2011, regarding vehicles 1 through 24, identified in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

21 Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of business operated in this state by Phuoc Thanh Pham, doing business as Bryant Auto Repair upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

22. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test and Repair Station License Number RC222956, issued to Phuoc Thanh Pham, doing business as Bryant Auto Repair, is revoked or suspended, any additional license issued under this chapter in the name of said licensee, including but not limited to Advanced Emission Specialist License Number EA044647, may be likewise revoked or suspended by the director.

23. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA044647, issued to Phuoc Thanh Pham, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD222956, issued to Phuoc Thanh Pham, doing business as Bryant Auto Repair;

2. Revoking or suspending Smog Check Station License Number RC222956, issued to Phuoc Thanh Pham, doing business as Bryant Auto Repair;

3. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Phuoc Thanh Pham, including but not limited to Advanced Emission Specialist Technician License Number EA044647;

4. Revoking or suspended Advanced Emission Specialist Technician License Number EA044647, issued to Phuoc Thanh Pham;

5. Ordering Phuoc Thanh Pham to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 9/28/11

SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SF2011202412
Bryant Auto Repair Accusation