

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

In the Matter of the Accusation Against:

**TRANS TEST ONLY SMOG STATION
KENNY TRAN**

aka HUU VIET TRAN, Owner

15193 Moran Street
Westminster, CA 92683
Automotive Repair Dealer Registration
No. ARD 230946
Smog Check Test Only Station License
No. TC 230946

KENNY TRAN

13441 Galway Street
Garden Grove, CA 92844
Advanced Emission Specialist Technician
License No. EA 148246

and

ANDERSON NGUYEN

aka QUAN TRONG NGUYEN

8981 Natoma Avenue
Westminster, CA 92683
Advanced Emission Specialist Technician
License No. EA 148900

Respondents.

Case No. 79/10-23

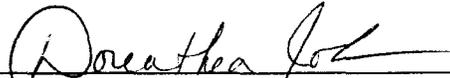
OAH No. 2009120378

DECISION

The attached Stipulated Revocation and Disciplinary Order as to Respondents Trans Test Only Smog Station and Kenny Tran, aka Huu Viet Tran, is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondents Trans Test Only Smog Station and Kenny Tran, aka Huu Viet Tran, Automotive Repair Dealer Registration No. ARD 230946, Smog Check Test Only Station License No. TC 230946, and Advanced Emission Specialist Technician License No. EA 148246.

This Decision shall become effective on 10-21-10.

DATED: September 15, 2010


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/10-23

13 **TRANS TEST ONLY SMOG STATION;**
KENNY TRAN; ANDERSON NGUYEN,
TECHNICIAN

OAH No. 2009120378

14 **15193 Moran Street**
Westminster, CA 92683
Automotive Repair Dealer
15 **Registration No. ARD 230946**
Smog Check Test Only Station
16 **License No. TC 230946**
Advanced Emission Specialist Technician
17 **License No. EA 148246**

STIPULATED REVOCATION AND
DISCIPLINARY ORDER AS TO
RESPONDENTS TRANS TEST ONLY
SMOG STATION AND KENNY TRAN,
a.k.a. HUU VIET TRAN

18 **KENNY TRAN**
13441 Galway Street
19 **Garden Grove, CA 92844**
Advanced Emission Specialist Technician
20 **License No. EA 148246,**

and

21 **ANDERSON NGUYEN,**
a.k.a. QUAN TRONG NGUYEN
22 **8981 Natoma Avenue**
Westminster, CA 92683
23 **Advanced Emission Specialist Technician**
24 **License No. EA 148900**

Respondents.

25
26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
27 entitled proceedings that the following matters are true:
28

ADVISEMENT AND WAIVERS

1 7. Respondent Tran has carefully read and fully understands the charges and allegations
2 in Accusation No. 79/10-23. Respondent Tran has also carefully read and fully understands the
3 effects of this Stipulated Revocation and Disciplinary Order.

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

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

CULPABILITY

13 10. Respondents admit the truth of each and every charge and allegation in Accusation
14 No. 79/10-23, and agree that this Stipulated Revocation and Order may be admitted and used in
15 any further and/or other proceedings involving Respondents and/or any of their affiliated
16 businesses or family members.

17 11. Respondents understand that by signing this stipulation they enable the Director or his
18 designee to issue an order revoking their Automotive Repair Dealer Registration, Smog Check
19 Test Only Station License, and Advanced Emission Specialist Technician License without further
20 process.

21 12. Respondents agree that their Automotive Repair Dealer Registration, Smog Check
22 Test Only Station License, and Advanced Emission Specialist Technician License are subject to
23 discipline and agree to be bound by the Director's imposition of discipline as set forth in the
24 Disciplinary Order below.
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CONTINGENCY

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

12 14. The parties understand and agree that facsimile copies of this Stipulated Revocation
13 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
14 effect as the originals.

15 15. This Stipulated Revocation and Disciplinary Order is intended by the parties to be an
16 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
18 negotiations, and commitments (written or oral). This Stipulated Revocation and Disciplinary
19 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
20 writing executed by an authorized representative of each of the parties.

21 16. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Director may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

DISCIPLINARY ORDER

24
25 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 230946,
26 Smog Check Test Only Station License No. TC 230946, and Advanced Emission Specialist
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1 Technician License No. EA 148246 issued to Respondents Trans Test Only Smog Station and
2 Kenny Tran, a.k.a. Huu Viet Tran, are revoked.

3 1. The revocation of Respondents' Registration and Licenses shall constitute the
4 imposition of discipline against all Respondents. This stipulation constitutes a record of the
5 discipline and shall become a part of Respondents' license history with the Bureau.

6 2. Respondents shall lose all rights and privileges as a registered Automotive Repair
7 Dealer, Smog Check Station Licensee, and Advanced Emission Specialist Technician Licensee as
8 of the effective date of the Director's Decision and Order.

9 3. Respondents shall cause to be delivered to the Bureau all their registration and license
10 wall and pocket license certificates on or before the effective date of the Decision and Order.

11 4. Respondents shall not petition for reinstatement or apply for any new registration or
12 license with the Bureau, for a period of five years from the effective date of this Decision and
13 Order. If any Respondent ever applies for registration or licensure, or petitions for reinstatement
14 in the state of California, the Bureau shall treat it as a new application for licensure. Respondents
15 must comply with all the laws, regulations and procedures for licensure in effect at the time the
16 application or petition is filed.

17 5. Should any Respondent ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, all of the charges and allegations contained in Accusation
19 No. 79/10-23 shall be deemed to be true, correct, and admitted by that Respondent for the purpose
20 of any Statement of Issues or any other proceeding seeking to deny or restrict licensure involving
21 Respondents and/or any of their affiliated businesses or family members.

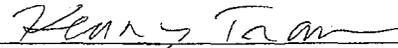
22 6. The total costs of investigation and enforcement of this case are \$16,803.40 through
23 June 14, 2010. These costs are the actual and total costs incurred by the Bureau to investigate and
24 prosecute the case, and all Respondents in these proceedings shall be jointly and severally liable
25 for their payment to the Bureau. The Bureau agrees to waive recovery of these costs unless and
26 until any Respondent in these proceedings applies for reinstatement of his Automotive Repair
27 Dealer Registration, Smog Check Test Only Station License, and/or Advanced Emission
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1 until any Respondent in these proceedings applies for reinstatement of his Automotive Repair
2 Dealer Registration, Smog Check Test Only Station License, and/or Advanced Emission
3 Specialist Technician License(s), or for any new registration or license with the Bureau, in which
4 case Respondent(s) shall pay these costs in full at the time when such application is made.

5 ACCEPTANCE

6 I have carefully read the above Stipulated Revocation and Disciplinary Order and
7 understand the stipulation and the effect it will have on my Automotive Repair Dealer
8 Registration, Smog Check Test Only Station License, and Advanced Emission Specialist
9 Technician License. I enter into this Stipulated Revocation and Disciplinary Order voluntarily,
10 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
11 Consumer Affairs.

12
13 DATED: 6-21-2010



14 TRANS TEST ONLY SMOG STATION; KENNY
15 TRAN; Individually and as Owner and on behalf of
16 Trans Test Only Smog Station, Respondents

17 ENDORSEMENT

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

20 Dated: June 21, 2010

21 EDMUND G. BROWN JR.
22 Attorney General of California
23 LINDA K. SCHNEIDER
24 Supervising Deputy Attorney General



25 G. MICHAEL GERMAN
26 Deputy Attorney General
27 Attorneys for Complainant

28 SD2009702400

Exhibit A

Accusation No. 79/10-23

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Attorneys for Complainant

8
9 **BEFORE THE**
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. 79/10-23

13 **TRANS TEST ONLY SMOG STATION**
14 **KENNY TRAN,**
15 **a.k.a. HUU VIET TRAN, OWNER**
16 **15193 Moran Street**
Westminster, CA 92683

A C C U S A T I O N

(Smog Check)

17 **Automotive Repair Dealer Reg. No. ARD 230946**
18 **Smog Check, Test Only, Station License No. TC**
230946

19 **KENNY TRAN**
20 **13441 Galway Street**
Garden Grove, CA 92844

21 **Advanced Emission Specialist Technician**
License No. EA 148246,

22 **and**

23 **ANDERSON NGUYEN,**
24 **a.k.a. QUAN TRONG NGUYEN**
25 **8981 Natoma Avenue**
Westminster, CA 92683

26 **Advanced Emission Specialist Technician**
License No. EA 148900

27 Respondents.
28

1 Complainant alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration No. ARD 230946**

6 2. On or about December 30, 2003, the Director of Consumer Affairs ("Director")
7 issued Automotive Repair Dealer Registration Number ARD 230946 (hereinafter "ARD
8 registration") to Kenny Tran, also known as Huu Viet Tran ("Respondent Tran"), owner of Trans
9 Test Only Smog Station. Respondent's ARD registration was in full force and effect at all times
10 relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

11 **Smog Check, Test Only, Station License No. TC 230946**

12 3. On or about May 23, 2005, the Director issued Smog Check, Test Only, Station
13 License Number TC 230946 (hereinafter "smog check station license") to Respondent Tran.
14 Respondent's smog check station license was in full force and effect at all times relevant to the
15 charges brought herein and will expire on December 31, 2009, unless renewed.

16 **Advanced Emission Specialist Technician License No. EA 148246**

17 4. In or about 2004, the Director issued Advanced Emission Specialist Technician
18 License Number EA 148246 (hereinafter "technician license") to Respondent Tran.
19 Respondent's technician license was in full force and effect at all times relevant to the charges
20 brought herein and will expire on August 31, 2010, unless renewed.

21 **Advanced Emission Specialist Technician License No. EA 148900**

22 5. In or about 2004, the Director issued Advanced Emission Specialist Technician
23 License Number EA 148900 to Anderson Nguyen, also known as Quan Trong Nguyen
24 ("Respondent Nguyen"). Respondent's technician license was in full force and effect at all times
25 relevant to the charges brought herein and will expire on November 30, 2009, unless renewed.

26 **JURISDICTION**

27 6. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
28 the Director may invalidate an automotive repair dealer registration.

1 “program,” and “agency.” “License” includes certificate, registration or other means to engage in
2 a business or profession regulated by the Bus. & Prof. Code.

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

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

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

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

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

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

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

19 (1) Clean piping, as defined by the department.

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

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

25 COST RECOVERY

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

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VIDEO SURVEILLANCE OPERATION OF MARCH 9, 2009

16. On March 9, 2009, a representative of the Bureau conducted a video surveillance operation of Respondent Tran's smog check facility. The surveillance video and information obtained from the Bureau's vehicle information database ("VID") revealed that Respondents Tran and Nguyen issued electronic smog certificates of compliance, certifying that they had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Nguyen conducted four (4) of the inspections using clean piping methods¹, and Respondent Tran conducted one of the inspections using clean-plugging methods², resulting in the issuance of fraudulent certificates of compliance for the vehicles. Further, Respondents Tran and Nguyen failed to conduct the required functional fuel cap integrity test and functional low pressure fuel evaporative test on certain vehicles.

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
1. 09:53-10:03	1999 Toyota; 4FIR469	1999 Toyota; 4FIR469	VX710571C	Respondent Tran; functional fuel cap integrity test not performed
2. 10:11-10:26	1999 Chevrolet; 8J75655	1997 Honda; 4LWU606	VX710572C	Respondent Tran; Honda used during OBDII functional test on Chevrolet
3. 10:33-10:42	1998 Toyota; 4BRB825	1998 Toyota; 4BRB825	VX710573C	Respondent Tran; functional fuel cap integrity test not performed

¹ Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t), "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to issue a certificate of compliance for another vehicle.

² The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97 analyzer. During the OBDII 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 OBDII functional test, it will fail the overall inspection.

Clean-plugging is the use of the OBDII 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.

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Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
4. 10:47-10:53	1999 Toyota; 4EEY646	1999 Toyota; 4EEY646	VX710574C	Respondent Tran; functional fuel cap integrity test not performed
5. 11:59-12:19	1995 Toyota; 3VFC631	1995 Toyota; 3VFC631	None; vehicle failed inspection	Same as above.
6. 12:28-12:37	1997 Acura; 4XTH356	1997 Acura; 4XTH356	VX710575C	“ “ “
7. 12:41-12:48	2000 Toyota; 4KBN062	2000 Toyota; 4KBN062	VX710576C	Respondent Nguyen; functional fuel cap integrity test not performed
8. 12:52-12:56	2001 Toyota; 4ZMU138	2001 Toyota; 4ZMU138	VX710577C	Same as above.
9. 13:14-13:29	1992 Toyota; 2ZOD065	1992 Toyota; 2ZOD065	VX710578C	“ “ “
10. 13:37-13:43	1987 Toyota; 8M58563	1987 Toyota; 8M58563	VX710579C	Respondent Nguyen; functional low pressure fuel evaporative test not performed
11. 14:13-14:21	1993 Nissan; 4AFX055	1993 Nissan; 4AFX055	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
12. 14:28-14:37	1991 Mercedes; 2VWL881	1993 Lexus; 6DGC528	VX710580C	Respondent Nguyen; clean-piping; Mercedes not observed during surveillance
13. 15:00-15:18	1991 Toyota; 3VXZ587	1991 Toyota; 3VXZ587	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
14. 15:55-16:01	2001 Lincoln; 5NWB675	1999 Honda; 4GDB338	VX710582C	Respondent Nguyen; clean-piping; Lincoln not observed during surveillance
15. 16:17-16:33	2000 Toyota; 6F26106	1993 Lexus; 6DGC528	VX710583C	Respondent Nguyen; clean-piping; Toyota not observed during surveillance
16. 16:41-16:46	2003 Toyota; 5BPV451	2003 Toyota; 5BPV451	VX710584C	Respondent Nguyen; functional fuel cap integrity test not performed

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
17. 16:50-16:55	1991 Toyota; 3VXZ587	1991 Toyota; 3VXZ587	VX710585C	Respondent Nguyen; functional fuel cap integrity test not performed
18. 17:07-17:11	2003 Toyota; 5CCS119	2003 Toyota; 5CCS119	VX710587C	Same as above.
19. 17:14-17:18	2001 Honda; 4RYD314	2001 Honda; 4RYD314	VX710588C	" " "
20. 17:44-17:51	1995 Honda; 4ZQK734	1997 Honda; 4LWU606	VX710589C	Respondent Nguyen; clean-piping; 1995 Honda not observed during surveillance

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

17. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 12, 14, 15, and 20, identified in paragraph 16 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

b. Respondent Tran's technician, Respondent Nguyen, certified that vehicle 10, identified in paragraph 16 above, had passed inspection and was in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional low pressure fuel evaporative test on the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

c. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 7 through 9 and 16 through 19, identified in paragraph 16 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform

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1 the functional fuel cap integrity test on the vehicles and did not test or inspect the vehicles as
2 required by Health & Saf. Code section 44012.

3 d. Respondent Tran certified that vehicle 2, identified in paragraph 16 above, had passed
4 inspection and was in compliance with applicable laws and regulations. In fact, Respondent Tran
5 used clean-plugging methods in order to issue a certificate for the vehicle and did not test or
6 inspect the vehicle as required by Health & Saf. Code section 44012.

7 e. Respondent Tran certified that vehicles 1, 3, 4, and 6, identified in paragraph 16
8 above, had passed inspection and were in compliance with applicable laws and regulations. In
9 fact, Respondent Tran failed to perform the functional fuel cap integrity test on the vehicles and
10 did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

11 SECOND CAUSE FOR DISCIPLINE

12 (Fraud)

13 18. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus.
14 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which
15 constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 4, 6
16 through 10, 12, and 14 through 20, identified in paragraph 16 above, without performing bona
17 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
18 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
19 Program.

20 THIRD CAUSE FOR DISCIPLINE

21 (Violations of the Motor Vehicle Inspection Program)

22 19. Respondent Tran's smog check station license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
24 comply with provisions of that Code, as follows:

25 a. Section 44012: Respondent failed to perform emission control tests on vehicles 1
26 through 20, identified in paragraph 16 above, in accordance with procedures prescribed by the
27 department.

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1 certificates of compliance for vehicles 1 through 4, 6 through 10, 12, and 14 through 20,
2 identified in paragraph 16 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.

5 **SIXTH CAUSE FOR DISCIPLINE**

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

7 22. Respondent Tran's technician license is subject to disciplinary action pursuant to
8 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
9 provisions of that Code, as follows:

10 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1
11 through 6, identified in paragraph 16 above, in accordance with procedures prescribed by the
12 department.

13 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the
14 issuance of fraudulent certificates of compliance for vehicles 1 through 4 and 6, identified in
15 paragraph 16 above.

16 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 23. Respondent Tran's technician license is subject to disciplinary action pursuant to
20 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
21 provisions of California Code of Regulations, title 16, as follows:

22 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
23 electronic smog certificates of compliance for vehicles 1 through 4 and 6, identified in paragraph
24 16 above.

25 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 1
26 through 6, identified in paragraph 16 above, in accordance with Health & Saf. Code sections
27 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

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1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1
2 through 6, identified in paragraph 16 above, in accordance with the Bureau's specifications.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 24. Respondent Tran's technician license is subject to disciplinary action pursuant to
6 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
7 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of
8 compliance for vehicles 1 through 4 and 6, identified in paragraph 16 above, without performing
9 bona fide inspections of the emission control devices and systems on the vehicles, thereby
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle
11 Inspection Program.

12 **NINTH CAUSE FOR DISCIPLINE**

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

14 25. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
15 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
16 provisions of that Code, as follows:

17 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 7
18 through 20, identified in paragraph 16 above, in accordance with procedures prescribed by the
19 department.

20 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the
21 issuance of fraudulent certificates of compliance for vehicles 7 through 10, 12, and 14 through 20,
22 identified in paragraph 16 above.

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1 **TENTH CAUSE FOR DISCIPLINE**

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

4 26. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for vehicles 7 through 10, 12, and 14 through 20,
9 identified in paragraph 16 above.

10 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test vehicles 7
11 through 20, identified in paragraph 16 above, in accordance with Health & Saf. Code sections
12 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on vehicles 7
14 through 20, identified in paragraph 16 above, in accordance with the Bureau's specifications.

15 **ELEVENTH CAUSE FOR DISCIPLINE**

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

17 27. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
18 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
19 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of
20 compliance for vehicles 7 through 10, 12, and 14 through 20, identified in paragraph 16 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.

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VIDEO SURVEILLANCE OPERATION OF MARCH 10, 2009

28. On March 10, 2009, a representative of the Bureau conducted a video surveillance operation of Respondent Tran's smog check facility. The surveillance video and information obtained from the Bureau's VID revealed that Respondents Tran and Nguyen issued electronic smog certificates of compliance, certifying that they had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Nguyen conducted one of the inspections using clean piping methods, resulting in the issuance of a fraudulent certificate of compliance for the vehicle. Further, Respondents Tran and Nguyen failed to conduct the required functional fuel cap integrity test and functional low pressure fuel evaporative test on certain vehicles.

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
1. 09:49-09:59	2001 Honda; 4WBM157	2001 Honda; 4WBM157	VX710590C	Respondent Tran; functional fuel cap integrity test not performed
2. 10:20-10:29	1998 Honda; 2HOT	1998 Honda; 2HOT	VX710592C	Same as above.
3. 10:35-10:45	1998 Toyota; 4RSW872	1998 Toyota; 4RSW872	VX710593C	" " "
4. 11:47-12:06	1995 Honda; 5FCT166	1995 Honda; 5FCT166	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
5. 12:47-13:04	1992 Mercedes; 3CEG703	1992 Mercedes; 3CEG703	VX710595C	Respondent Tran; functional low pressure fuel evaporative test not performed
6. 13:09-13:15	1987 Toyota; 3ABE591	1987 Toyota; 3ABE591	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
7. 13:20-13:27	1993 Lexus; 6DGC528	1993 Lexus; 6DGC528	VX710596C	Respondent Nguyen; functional low pressure fuel evaporative test not performed

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
8. 14:48-14:55	1995 Honda; 5FCT166	1995 Honda; 5FCT166	VX710600C	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
9. 15:00-15:14	1996 GMC; 7L80281	1993 Lexus; 6DGC528	VX763401C	Respondent Nguyen; clean piping; GMC not observed during surveillance
10. 15:30-15:35	1998 Honda; 5KEG397	1998 Honda; 5KEG397	VX763402C	Respondent Nguyen; functional fuel cap integrity test not performed
11. 16:36-16:41	1999 Honda; 4EYH164	1999 Honda; 4EYH164	VX763404C	Same as above.

TWELFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

29. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Tran's technician, Respondent Nguyen, certified that vehicle 9, identified in paragraph 28 above, had passed inspection and was in compliance with applicable laws and regulations. In fact, Respondent Nguyen used clean piping methods in order to issue a certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

b. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 7 and 8, identified in paragraph 28 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional low pressure fuel evaporative test on the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

c. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 8, 10, and 11, identified in paragraph 28 above, had passed inspection and were in compliance with

1 applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional fuel
2 cap integrity test on the vehicles and did not test or inspect the vehicles as required by Health &
3 Saf. Code section 44012.

4 d. Respondent Tran certified that vehicle 5, identified in paragraph 28 above, had passed
5 inspection and was in compliance with applicable laws and regulations. In fact, Respondent Tran
6 failed to perform the functional low pressure fuel evaporative test on the vehicle and did not test
7 or inspect the vehicle as required by Health & Saf. Code section 44012.

8 e. Respondent Tran certified that vehicles 1 through 3, identified in paragraph 28 above,
9 had passed inspection and were in compliance with applicable laws and regulations. In fact,
10 Respondent Tran failed to perform the functional fuel cap integrity test on the vehicles and did
11 not test or inspect the vehicles as required by Health & Saf. Code section 44012.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 30. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus.
15 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which
16 constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 3, 5,
17 and 7 through 11, identified in paragraph 28 above, without performing bona fide inspections of
18 the emission control devices and systems on the vehicles, thereby depriving the People of the
19 State of California of the protection afforded by the Motor Vehicle Inspection Program.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

22 31. Respondent Tran's smog check station license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
24 comply with provisions of that Code, as follows:

25 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1
26 through 11, identified in paragraph 28 above, in accordance with procedures prescribed by the
27 department.

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1 the vehicles, thereby depriving the People of the State of California of the protection afforded by
2 the Motor Vehicle Inspection Program.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

5 34. Respondent Tran's technician license is subject to disciplinary action pursuant to
6 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
7 provisions of that Code, as follows:

8 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1
9 through 3 and 5, identified in paragraph 28 above, in accordance with procedures prescribed by
10 the department.

11 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the
12 issuance of fraudulent certificates of compliance for vehicles 1 through 3 and 5, identified in
13 paragraph 28 above.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

17 35. Respondent Tran's technician license is subject to disciplinary action pursuant to
18 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
19 provisions of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
21 electronic smog certificates of compliance for vehicles 1 through 3 and 5, identified in paragraph
22 28 above.

23 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 1
24 through 3 and 5, identified in paragraph 28 above, in accordance with Health & Saf. Code
25 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

26 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1
27 through 3 and 5, identified in paragraph 28 above, in accordance with the Bureau's specifications.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent Tran's technician license is subject to disciplinary action pursuant to
4 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
5 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of
6 compliance for vehicles 1 through 3 and 5, identified in paragraph 28 above, without performing
7 bona fide inspections of the emission control devices and systems on the vehicles, thereby
8 depriving the People of the State of California of the protection afforded by the Motor Vehicle
9 Inspection Program.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

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

12 37. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
13 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
14 provisions of that Code, as follows:

15 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 4
16 and 6 through 11, identified in paragraph 28 above, in accordance with procedures prescribed by
17 the department.

18 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the
19 issuance of fraudulent certificates of compliance for vehicles 7 through 11, identified in
20 paragraph 28 above.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

4 38. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for vehicles 7 through 11, identified in paragraph 28
9 above.

10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 4
11 and 6 through 11, identified in paragraph 28 above, in accordance with Health & Saf. Code
12 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 4
14 and 6 through 11, identified in paragraph 28 above, in accordance with the Bureau's
15 specifications.

16 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

18 39. Respondent Nguyen's technician license is subject to disciplinary action pursuant to
19 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
20 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of
21 compliance for vehicles 7 through 11, identified in paragraph 28 above, without performing bona
22 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
23 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
24 Program.

25 **OTHER MATTERS**

26 40. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
27 Director may refuse to validate, or may invalidate temporarily or permanently, the registrations
28 for all places of business operated in this state by Respondent Kenny Tran, also known as Huu

1 Viet Tran, owner of Trans Test Only Smog Station, upon a finding that said Respondent has, or
2 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to
3 an automotive repair dealer.

4 41. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only,
5 Station License Number TC 230946, issued to Respondent Kenny Tran, also known as Huu Viet
6 Tran, owner of Trans Test Only Smog Station, is revoked or suspended, any additional license
7 issued under this chapter in the name of said licensee may be likewise revoked or suspended by
8 the Director.

9 42. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist
10 Technician License Number EA 148246, issued to Respondent Kenny Tran, also known as Huu
11 Viet Tran, is revoked or suspended, any additional license issued under this chapter in the name
12 of said licensee may be likewise revoked or suspended by the Director.

13 43. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist
14 Technician License Number EA 148900, issued to Anderson Nguyen, also known as Quan Trong
15 Nguyen, is revoked or suspended, any additional license issued under this chapter in the name of
16 said licensee may be likewise revoked or suspended by the Director.

17 **PRAYER**

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

20 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
21 Number ARD 230946, issued to Kenny Tran, also known as Huu Viet Tran, owner of Trans Test
22 Only Smog Station;

23 2. Temporarily or permanently invalidating any other automotive repair dealer
24 registration issued to Kenny Tran, also known as Huu Viet Tran;

25 3. Revoking or suspending Smog Check, Test Only, Station License Number
26 TC 230946, issued to Kenny Tran, also known as Huu Viet Tran, owner of Trans Test Only Smog
27 Station;

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1 4. Revoking or suspending Advanced Emission Specialist Technician License
2 Number EA 148246, issued to Kenny Tran, also known as Huu Viet Tran;

3 5. Revoking or suspending any additional license issued under Chapter 5 of the
4 Health and Safety Code in the name of Kenny Tran, also known as Huu Viet Tran;

5 6. Revoking or suspending Advanced Emission Specialist Technician License
6 Number EA 148900, issued to Anderson Nguyen, also known as Quan Trong Nguyen;

7 7. Revoking or suspending any additional license issued under Chapter 5 of the
8 Health and Safety Code in the name of Anderson Nguyen, also known as Quan Trong Nguyen; ;

9 8. Ordering Kenny Tran, also known as Huu Viet Tran, owner of Trans Test Only
10 Smog Station, and Anderson Nguyen, also known as Quan Trong Nguyen, to pay the Bureau of
11 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
12 pursuant to Business and Professions Code section 125.3;

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

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15 DATED: 10/15/09



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