

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

In the Matter of the Statement of Issues
Against:

VECTOR AUTO CARE LLC
LAP THANH, TRAN, Member

Respondent.

Case No. 79/13-18s

DECISION

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

This Decision shall become effective 3/19/13.

DATED: FEB 20 2013



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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7

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

10
11 In the Matter of the Statement of Issues
Against:

12 **VECTOR AUTO CARE LLC**
13 **LAP THANH, TRAN, Member**

14
15 Respondent.

Case No. 79/13-18s

16
17 **STIPULATED SETTLEMENT AND**
18 **DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
24 brought this action solely in his official capacity and is represented in this matter by Kamala D.
25 Harris, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney General.

26 2. Respondent Vector Auto Care LLC, Lap Thanh Tran, member (Respondent) is
27 representing itself in this proceeding and has chosen not to exercise its right to be represented by
28 counsel.

3. On or about December 19, 2011, Respondent filed an application dated December 14,
2011, with the Director of Consumer Affairs to obtain a Smog Check License.

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CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Vector Auto Care LLC, Lap Thanh Tran, member, be issued an Automotive Repair Dealer Registration that shall be immediately revoked. IT IS HEREBY ORDERED that Respondent Vector Auto Care LLC, Lap Thanh Tran, member, be issued a Smog Check Station License that shall be immediately revoked. The revocations will

1 be stayed and the Respondent placed on one (1) year probation on the following terms and
2 conditions.

3 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
4 automotive inspections, estimates and repairs.

5 2. **Reporting.** Respondent or Respondent's authorized representative must report in
6 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
7 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
8 maintaining compliance with the terms and conditions of probation.

9 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
10 any financial interest which any partners, officers, or owners of the Respondent facility may have
11 in any other business required to be registered pursuant to Section 9884.6 of the Business and
12 Professions Code.

13 4. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
14 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

15 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of
16 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
17 until the final decision on the accusation, and the period of probation shall be extended until such
18 decision.

19 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
20 Respondent has failed to comply with the terms and conditions of probation, the Department may,
21 after giving notice and opportunity to be heard temporarily or permanently invalidate the
22 registration and/or suspend or revoke the license.

23 7. **False and Misleading Advertising.** If the statement of issues involves false and
24 misleading advertising, during the period of probation, Respondent shall submit any proposed
25 advertising copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

26 8. **Restrictions.** During the period of probation, Respondent shall not perform any form
27 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,
28 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to

1 properly perform such work, and BAR has been given 10 days notice of the availability of the
2 equipment for inspection by a BAR representative.

3 ACCEPTANCE

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

10
11 DATED: 01-28-2013



12 VECTOR AUTO CARE LLC
13 LAP THANH TRAN
14 Respondent

15 ENDORSEMENT

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

18
19 Dated: 2/7/13

Respectfully submitted,

20 KAMALA D. HARRIS
21 Attorney General of California
22 FRANK H. PACOE
23 Supervising Deputy Attorney General



24 JUSTIN R. SURBER
25 Deputy Attorney General
26 *Attorneys for Complainant*

27 SF2012204424
28 Stipulation.rtf

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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 Statement of Issues Against:

Case No. 79/13-185

13 **VECTOR AUTO CARE LLC**
LAP THANH TRAN, MEMBER

14 Respondent.

STATEMENT OF ISSUES

(smog check)

15
16 Complainant alleges:

17 **PARTIES/LICENSE INFORMATION**

18 1. John Wallauch ("Complainant") brings this Statement of Issues solely in his official
19 capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer
20 Affairs.

21 2. On or about August 16, 2011, the Director of Consumer Affairs ("Director") issued
22 Automotive Repair Dealer Registration Number ARD 266268 ("ARD registration") to Vector
23 Auto Care LLC, with Lap Thanh Tran ("Tran") and Nhan H. Le as members. The ARD
24 registration will expire on August 31, 2013, unless renewed.

25 3. On or about January 23, 2012, the Director issued Smog Check Station License
26 Number RC 266268 to Vector Auto Care LLC. The smog check station license will expire on
27 August 31, 2013, unless renewed.

28 ///

1 12. Health and Safety Code ("Health & Saf. Code") section 44072 provides, in pertinent
2 part, that the Director may refuse to issue a license to any applicant for the reasons set forth in
3 Section 44072.1.

4 13. Health & Saf. Code section 44072.1 states, in pertinent part:

5 The director may deny a license if the applicant, or any partner, officer, or
6 director thereof, does any of the following:

7

8 (d) Has committed any act involving dishonesty, fraud, or deceit whereby
9 another is injured or whereby the applicant has benefitted . . .

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

13 **FIRST CAUSE FOR DENIAL**

14 **(Dishonesty, Fraud or Deceit: Application for Smog Check Station License)**

15 15. Respondent's application for smog check station license is subject to denial pursuant
16 to Health & Saf. Code section 44072.1, subdivision (d), and Bus. & Prof. Code section 480,
17 subdivisions (a)(2) and (a)(3)(A), in that Respondent's member, Tran, committed an act involving
18 dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or
19 substantially injure another, as follows: On or about December 14, 2011, Tran certified under
20 penalty of perjury in his answer to question 3 on the application that he had never been issued a
21 citation. In fact, Citation No. M06-0582 had been issued against Tran's technician license on
22 March 21, 2006, as set forth in paragraph 7 above.

23 **SECOND CAUSE FOR DENIAL**

24 **(Untrue or Misleading Statements)**

25 16. Respondent's application for ARD registration is subject to denial pursuant to Bus. &
26 Prof. Code sections 9884.7, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that
27 Respondent's member, Tran, made or authorized a statement which he knew, or in the exercise of
28 reasonable care should have known to be untrue or misleading, as set forth in paragraph 15 above.

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1 THIRD CAUSE FOR DENIAL

2 (Dishonesty, Fraud, or Deceit: Application for ARD Registration)

3 17. Respondent's application for ARD registration is subject to denial pursuant to Bus. &
4 Prof. Code section 480, subdivisions (a)(2) and (a)(3)(A), in that Respondent's member, Tran,
5 committed an act involving dishonesty, fraud, or deceit with the intent to substantially benefit
6 himself or another, or substantially injure another, as set forth in paragraph 15 above.

7 FOURTH CAUSE FOR DENIAL

8 (False Statement in Respondent's Application for Smog Check Station License)

9 18. Respondent's application for a smog check station license is subject to denial
10 pursuant to Bus. & Prof. Code section 480, subdivision (c), in that on or about December 14,
11 2011, Respondent's member, Tran, knowingly made a false statement of fact required to be
12 revealed on the application, as set forth in paragraph 15 above.

13 PRAYER

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

- 16 1. Denying the application of Vector Auto Care LLC for an automotive repair dealer
- 17 registration;
- 18 2. Denying the application of Vector Auto Care LLC for a smog check station license;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 9/27/12

21 John Wallauch by Doug Balatti
 22 JOHN WALLAUCH
 23 Chief
 24 Bureau of Automotive Repair
 25 Department of Consumer Affairs
 26 State of California
 27 Complainant

28 SF2012204424