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

10
11 In the Matter of the Accusation Against:

Case No. **79/15-23**

12 **NO BS SMOG TEST ONLY**
13 **TAI LE ANH NGUYEN, Owner**
135 Keyes Suite 1
14 **San Jose, CA 95112**

ACCUSATION

15 **Automotive Repair Dealer Registration No.**
ARD 269575
16 **Smog Check, Test Only, Station License No.**
TC 269575

17 **TAI LE ANH NGUYEN**
18 **197 DANZE DR**
SAN JOSE, CA 95111

19 **Smog Check Technician, Advanced**
20 **Emission Specialist, License No. EA 631655**
(to be re-designated upon renewal as EO
21 **631655 and/ or EI 631655)**

22 Respondent.

23
24 Complainant alleges:

25 **PARTIES**

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

1 department shall be a ground for revocation or suspension of a smog check technician's license
2 under Section 44072.2.

3 . . .”

4 8. Section 44050, subsection (e), of the Health and Safety Code states:

5 “(e) Failure to comply with an order of abatement or payment of an administrative fine
6 issued by the department pursuant to this section is grounds for suspension or revocation of the
7 license, or placing the licensee on probation.”

8 9. Section 44072.2 of the Health and Safety Code states:

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

12 . . .

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

14 . . .

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

17 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
18 expiration or suspension of a license by operation of law, or by order or decision of the Director
19 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
20 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
21 proceedings against the licensee, or to render a decision suspending or revoking the license.

22 11. California Code of Regulations, title 16, section 3340.24, states:

23 “(a) Any disciplinary or reinstatement proceeding under this article involving licensed
24 stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and
25 Safety Code shall be conducted in accordance with chapter 5 (commencing with section 11500) of
26 division 3, Title 2 of the Government Code.

27 “(b) The bureau may suspend or revoke the license of or pursue other legal action against a
28 licensee, if the licensee knowingly and willfully resists, delays, or obstructs any employee of the

1 bureau or any employee of the quality assurance contractor of the bureau in carrying out the
2 lawful performance of his or her duties.

3 "(c) The bureau may suspend or revoke the license of or pursue other legal action against a
4 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
5 certificate of noncompliance.

6 "(d) The bureau may suspend or revoke the license of or pursue other legal action against a
7 licensee that fails to complete retraining when required by the department, pursuant to section
8 44045.6 of the Health and Safety Code."

9 12. California Code of Regulations, title 16, section 3340.31, states:

10 "(a) Licensed inspectors or repair technicians receiving citations pursuant to subdivision (b)
11 of Section 44050 of the Health and Safety Code, or found lacking in skills pursuant to subdivision
12 (b) of Section 44031.5 of the Health and Safety Code, or found lacking in skills pursuant to
13 subdivision (c) of Section 44045.6 of the Health and Safety Code, shall be required to undergo
14 retraining at institutions and by instructors certified by the bureau pursuant to Sections 44030.5
15 and 44045.6 of the Health and Safety Code.

16 "(b) Failure by a licensed inspector or repair technician to complete retraining when
17 required by the department shall be grounds for revocation or suspension of the license, pursuant
18 to section 44045.6 of the Health and Safety Code."

19 COSTS

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

24 FIRST CAUSE FOR DISCIPLINE

25 (Failure to Comply with Citation)

26 14. Respondent Nguyen's Smog Check Technician License is subject to disciplinary
27 action under section 44050, subsection (e) of the Health and Safety Code in that Respondent
28 Nguyen failed to comply with a citation and order of abatement. On or about November 20,

1 2012, Respondent was issued Citation No. M2013-0334. The Citation ordered Respondent to
2 attend an 8 hour certified training course. Respondent failed to appeal the citation which became
3 a final order. Respondent failed to take an 8 hour training course.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Failure to Complete Training)**

6 15. Respondent Nguyen's Smog Check Technician License is subject to disciplinary
7 action under section 44045.6 subsection (c) of the Health and Safety Code in conjunction with
8 California Code of Regulations, title 16, section 3340.24, California Code of Regulations, title 16,
9 section 3340.24, and Health and Safety Code section 44072.2 in that Respondent Nguyen failed to
10 complete a training course that was ordered by the Department. On or about November 20, 2012,
11 Respondent was issued Citation No. M2013-0334. The Citation ordered Respondent to attend an
12 8 hour certified training course. Respondent failed to appeal the citation which became a final
13 order. Respondent failed to take an 8 hour training course.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Citation)**

16 16. Respondent No BS's Station License is subject to disciplinary action under section
17 44050, subsection (e) of the Health and Safety Code in that Respondent No BS failed to comply
18 with a citation and order of abatement. On or about November 20, 2012, Respondent was issued
19 Citation No. C2013-0335. The Citation ordered Respondent No BS to pay a \$1000 civil penalty.
20 Respondent No BS failed to appeal the citation which became a final order. Respondent No BS
21 failed to pay the \$1000 civil penalty.

22 **PRAYER**

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

- 25 1. Revoking or suspending Smog Check, Test Only, Station License Number TC
26 269575, issued to No BS Smog Test Only, Tai Le Anh Nguyen, sole owner;
- 27 2. Revoking or suspending Advanced Emission Specialist, License Number EA 631655,
28 issued to Tai Le Anh Nguyen;

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3. Ordering Tai Le Anh Nguyen 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;

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

DATED: August 26, 2014



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

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