

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

In the Matter of the Statement of Issues Against:

**TIEN VAN NGUYEN, OWNER, DOING
BUSINESS AS TND AUTO REPAIR**

Automotive Repair Dealer Registration
Applicant

Respondent.

Case No. 77/15-41s

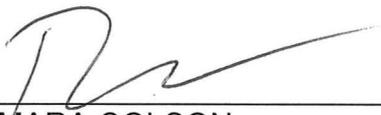
OAH No. 2015040168

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 October 27, 2015.

DATED: October 6, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues
Against:
13 **TIEN VAN NGUYEN, OWNER, DOING**
14 **BUSINESS AS TND AUTO REPAIR**
15 **Automotive Repair Dealer Registration**
16 **Applicant**
17 Respondent.

Case No. 77/15-41s
OAH No. 2015040168
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
20 Automotive Repair the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order which will be submitted to the Director for the Director's approval and
22 adoption as the final disposition of the Statement of Issues.

23 PARTIES

24 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
25 brought this action solely in his official capacity and is represented in this matter by Kamala D.
26 Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney
27 General.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that upon Respondent Tien Van Nguyen, Owner, doing
3 business as TND Auto Repair, meeting any and all other pre-licensure requirements an
4 Automotive Repair Dealer Registration will be issued and immediately revoked. The revocation
5 will be stayed and Respondent's Registration is placed on three (3) years probation on the
6 following terms and conditions.

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

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

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

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

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

23 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
24 Respondent has failed to comply with the terms and conditions of probation, the Department may,
25 after giving notice and opportunity to be heard, suspend or revoke the Registration.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 04-15-15


TIEN VAN NGUYEN, OWNER, DOING BUSINESS
AS IND AUTO REPAIR
Respondent

ENDORSEMENT

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

Dated: 4/27/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 77/15-41s

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

12 In the Matter of the Statement of Issues
13 Against:

Case No. 77/15-41s

14 **TIEN VAN NGUYEN, OWNER, DOING**
15 **BUSINESS AS TND AUTO REPAIR**

STATEMENT OF ISSUES

16 **Automotive Repair Dealer Registration**
17 **Applicant**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Patrick Dorais (Complainant) brings this Statement of Issues solely in his official
23 capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
24 2. On or about November 3, 2014, the Bureau of Automotive Repair received an
25 application for an Automotive Repair Dealer Registration from Tien Van Nguyen, Owner, doing
26 business as TND Auto Repair (Respondent). On or about October 29, 2014, Respondent certified
27 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
28 application. The Bureau denied the application on December 11, 2014.

1 of Probation' are advisory. Deviation from these guidelines and orders, including the standard
2 terms of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion
3 determines that the facts of the particular case warrant such deviation -for example: the presence
4 of mitigating factors; the age of the case; evidentiary problems.”

5 **CAUSE FOR DENIAL OF APPLICATION**

6 **(Knowingly Making a False Statement of Fact Required To Be Revealed in an Application)**

7 13. Respondent's application is subject to denial under Code section 480, subdivision (d)
8 in that Respondent knowingly made a false statement of fact required to be revealed in the
9 application for the license in the following respect:

10 14. In Respondent's license application, Question 7, Respondent was asked to list all
11 owners who control the business, TND Auto Repair. In response to Question 7, Respondent
12 wrote he was the owner.

13 15. In Respondent's license application, Respondent was asked in Question 8(b):

14 “Has any person listed in number 7 ever have/had a smog check technician . . . license
15 issued by the Bureau of Automotive Repair . . . been issued a citation?”

16 “If YES to any, you **must** provide a **DETAILED** statement including the registration or
17 license number disciplined, in addition to a description of the discipline imposed on the
18 registration or license.” (emphasis in original.)

19 16. In response to this question, Respondent checked the box next to “NO.”

20 17. In truth and in fact, as Respondent knew, on or about October 3, 2012, the Bureau
21 issued Citation Number M2013-0283 to Respondent's Smog Check Inspector License No.
22 EO153616 and Smog Check Repair Technician License No. EI153616 (formerly Advanced
23 Emission Specialist Technician License No. EA153616) and ordered Respondent to complete an
24 8-hour BAR certified training course. The Citation charged Respondent with a violation of
25 Health and Safety Code section 44032. It alleged that on July 10, 2012, Respondent issued a
26 certificate of compliance to a Bureau-documented vehicle with the EVAP canister missing.

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1 **MATTER IN AGGRAVATION**

2 18. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on or about October 3, 2012, the Bureau issued Citation Number
4 M2013-0283 and ordered Respondent to complete an 8-hour BAR certified training course. The
5 Citation charged Respondent with a violation of Health and Safety Code section 44032. It alleged
6 that on July 10, 2012, Respondent issued a certificate of compliance to a Bureau-documented
7 vehicle with the EVAP canister missing. On November 19, 2012, Respondent completed the
8 ordered training. That Citation is now final and is incorporated by reference as if fully set forth in
9 this paragraph.

10 **PRAYER**

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

- 13 1. Denying the application of Tien Van Nguyen, Owner, doing business as TND Auto
14 Repair for a Automotive Repair Dealer Registration; and
15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: March 12, 2015

Patrick Dorais

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

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