

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

In the Matter of the Accusation Against:)

SMOG TEST ONLY CENTER)
HIEN H. NGUYEN)
aka HIEN HUU NGUYAN, Owner)
13052 Century Boulevard, #A)
Garden Grove, CA 92843)
Automotive Repair Dealer Registration)
No. AB 209495)
Smog Check Station License No. TB 209495)

Case No. 79/06-27

OAH No. L 2006030834

and)

CHAU DUC NGUYEN)
9101 Mays Avenue)
Garden Grove, CA 92844)
Advanced Emission Specialist Technician)
License No. EA 147522)

Respondents.)

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 only as to respondent Chau Duc Nguyen, Advanced Emission Specialist Technician License No. EA 147522.

This Decision shall become effective October 2, 2006.

DATED: August 28, 2006



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
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8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **SMOG TEST ONLY CENTER, HIEN H.**
13 **NGUYEN aka HIEN HUU NGUYAN, Owner**
14 13052 Century Boulevard, #A
Garden Grove, CA 92843

15 Automotive Repair Dealer Registration No. AB
209495 and Smog Check Station License No. TB
16 209495,

17 **CHAU DUC NGUYEN**
18 9101 Mays Avenue
Garden Grove, CA 92844

19 Advanced Emission Specialist Tech. License No.
20 EA 147522.

Respondent.

Case No. 79/06-27

OAH No. L 2006030834

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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22 IT IS HEREBY STIPULATED AND AGREED by and between the Bureau of
23 Automotive Repair and Chau Duc Nguyen only, that the following matters are true:

24 **PARTIES**

25 1. Richard Ross (Complainant) is the Bureau Chief of the Bureau of
26 Automotive Repair (I/M Smog). He brought this action solely in his official capacity and is
27 represented in this matter by Bill Lockyer, Attorney General of the State of California, by James
28 M. Ledakis, Deputy Attorney General.

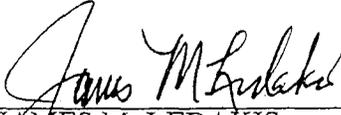
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ENDORSEMENT

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

DATED: July 7, 2006

BILL LOCKYER, Attorney General
of the State of California



JAMES M. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SD2005800433
80080657.wpd

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7 Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 79/06-27

13 **SMOG TEST ONLY CENTER**
HIEN H. NGUYEN
14 aka **HIEN HUU NGUYAN**, Owner
13052 Century Boulevard, #A
15 Garden Grove, CA 92843
Automotive Repair Dealer Reg. No. AB 209495
16 Smog Check (Test Only)
Station License No. TB 209495

ACCUSATION
(Smog Check)

17 and

18 **CHAU DUC NGUYEN**
19 9101 Mays Avenue
Garden Grove, CA 92844
20 Advanced Emission Specialist Technician
License No. EA 147522

21 Respondent.
22

23 Complainant alleges:

24 **PARTIES**

25
26 1. Richard Ross ("Complainant") brings this Accusation solely in his official
27 capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer
28 Affairs.

1 **Automotive Repair Dealer Reg. No. AB 209495**

2 2. On or about June 21, 2000, the Director of Consumer Affairs ("Director")
3 issued Automotive Repair Dealer Registration Number AB 209495 to Hien H. Nguyen, also
4 known as Hien Huu Nguyen ("Respondent Hien Nguyen"), owner of Smog Test Only Center.
5 Respondent's automotive repair dealer registration was in full force and effect at all times
6 relevant to the charges brought herein and will expire on February 28, 2006, unless renewed.

7 **Smog Check (Test Only) Station License No. TB 209495**

8 3. On or about July 7, 2000, the Director issued Smog Check (Test Only)
9 Station License Number TB 209495 to Respondent Hien Nguyen. Respondent's smog check
10 station license was in full force and effect at all times relevant to the charges brought herein and
11 will expire on February 28, 2006, unless renewed.

12 **Advanced Emission Specialist Technician License No. EA 147522**

13 4. On or about September 12, 2003, the Director issued Advanced Emission
14 Specialist Technician License Number EA 147522 to Chau Duc Nguyen ("Respondent Chau
15 Nguyen"). Respondent's advanced emission specialist technician license was in full force and
16 effect at all times relevant to the charges brought herein and will expire on April 30, 2007, unless
17 renewed.

18 **JURISDICTION**

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

21 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the
22 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a
23 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
24 registration temporarily or permanently.

25 7. Health and Safety Code ("Health & Saf. Code") section 44002 provides,
26 in pertinent part, that the Director has all the powers and authority granted under the Automotive
27 Repair Act for enforcing the Motor Vehicle Inspection Program.

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(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 . . .

12. Health & Saf. Code section 44072.8 states that 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

13. Bus. & Prof. 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.

SURVEILLANCE OPERATION OF JUNE 30, 2005

14. On June 30, 2005, a representative of the Bureau conducted a surveillance operation at Respondent Hien Nguyen's smog check station located in Garden Grove, California. The Bureau determined through the surveillance operation and information obtained from the Emission Inspection System ("EIS") and the Bureau's Vehicle Information Database ("VID") that Respondent Chau Nguyen issued electronic smog certificates of compliance on behalf of Respondent Hien Nguyen, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Chau Nguyen conducted the inspections using clean-piping methods¹, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

| Time of Smog Inspection | Vehicle Certified | Certificate No. | Vehicle(s) Actually Tested |
|-------------------------|---|-----------------|----------------------------|
| 1. 09:00 - 09:34 | 1996 Chevrolet S10 Blazer; License #6W65438 | FW047138C | Minivan |

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

| Time of Smog Inspection | Vehicle Certified | Certificate No. | Vehicle(s) Actually Tested |
|-------------------------|----------------------------------|-----------------|----------------------------|
| 2. 10:04 - 10:37 | 1991 Geo Metro; License #4LBB914 | FW047139C | 1997 Chevrolet Cavalier |

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

15. Respondent Hien Nguyen's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made statements which he knew, or in the exercise of reasonable care, should have known to be untrue or misleading. Respondent certified that vehicles 1 and 2, identified in paragraph 14 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Chau 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.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

16. Respondent Hien Nguyen's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 14 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 c. Section 3340.41, subdivision (c): Respondent entered false information
2 into the EIS unit by entering vehicle identification information or emission
3 control system identification data for vehicles other than the ones being
4 tested.

5 d. Section 3340.42: Respondent failed to conduct the required smog tests on
6 vehicles 1 and 2, identified in paragraph 14 above, in accordance with the
7 Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 19. Respondent Hien Nguyen's smog check station license is subject to
11 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that
12 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
13 issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 14
14 above, without performing bona fide inspections of the emission control devices and systems on
15 the vehicles, thereby depriving the People of the State of California of the protection afforded by
16 the Motor Vehicle Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 20. Respondent Chau Nguyen's advanced emission specialist technician
20 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
21 subdivision (a), in that Respondent failed to comply with the following sections of that Code:

22 a. Section 44012: Respondent failed to perform emission control tests on
23 vehicles 1 and 2, identified in paragraph 14 above, in accordance with
24 procedures prescribed by the department.

25 b. Section 44059: Respondent willfully made false entries in order to issue
26 electronic smog certificates of compliance for vehicles 1 and 2, identified
27 in paragraph 14 above.

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SEVENTH CAUSE FOR DISCIPLINE

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

21. Respondent Chau Nguyen's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the following sections of California Code of Regulations, title 16:

- a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 14 above.
- b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test vehicles 1 and 2, identified in paragraph 14 above, in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.
- c. **Section 3340.41, subdivision (c)**: Respondent entered false information into the EIS unit by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.
- d. **Section 3340.42**: Respondent failed to conduct the required smog tests on vehicles 1 and 2, identified in paragraph 14 above, in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

22. Respondent Chau Nguyen's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 14 above, without performing bona fide inspections of the emission

1 control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SURVEILLANCE OPERATION OF JULY 14, 2005**

4 23. On July 14, 2005, a representative of the Bureau conducted a surveillance
5 operation at Respondent Hien Nguyen's smog check station located in Garden Grove, California.
6 The Bureau determined through the surveillance operation and information obtained from the
7 EIS and the Bureau's VID that Respondent Chau Nguyen issued electronic smog certificates of
8 compliance on behalf of Respondent Hien Nguyen, certifying that he had tested and inspected the
9 vehicles identified below and that the vehicles were in compliance with applicable laws and
10 regulations. In fact, Respondent Chau Nguyen conducted the inspections using clean-piping
11 methods, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

| 12 Time of Smog Inspection | Vehicle Certified | Certificate No. | Vehicle(s) Actually Tested |
|----------------------------|---|-----------------|----------------------------|
| 13 1. 10:10 - 10:39 | 1986 Toyota Corolla; License #1SDE239 | FW487358C | Nissan Altima |
| 14 2. 12:28 - 12:52 | 1997 Chrysler Town & Country; no plates | FW487361C | Nissan Altima |
| 15 3. 14:53 - 15:10 | 1985 Chevrolet S10 Blazer; License #5GYX062 | FW487365C | Mercedes Benz |

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19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 24. Respondent Hien Nguyen's automotive repair dealer registration is subject
22 to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
23 Respondent made statements which he knew, or in the exercise of reasonable care, should have
24 known to be untrue or misleading. Respondent Hien Nguyen certified that vehicles 1 through 3,
25 identified in paragraph 23 above, had passed inspection and were in compliance with applicable
26 laws and regulations. In fact, Respondent Chau Nguyen used clean-piping methods in order to
27 issue certificates for the vehicles and did not test or inspect the vehicles as required by Health &
28 Saf. Code section 44012.

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

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 29. Respondent Chau Nguyen's advanced emission specialist technician
6 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
7 subdivision (a), in that Respondent failed to comply with the following sections of that Code:

- 8 a. **Section 44012:** Respondent failed to perform emission control tests on
9 vehicles 1 through 3, identified in paragraph 23 above, in accordance with
10 procedures prescribed by the department.
11 b. **Section 44059:** Respondent willfully made false entries in order to issue
12 electronic smog certificates of compliance for vehicles 1 through 3,
13 identified in paragraph 23 above.

14 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

17 30. Respondent Chau Nguyen's advanced emission specialist technician
18 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
19 subdivision (c), in that Respondent failed to comply with the following sections of California
20 Code of Regulations, title 16:

- 21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
22 issued electronic smog certificates of compliance for vehicles 1 through 3,
23 identified in paragraph 23 above.
24 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
25 vehicles 1 through 3, identified in paragraph 23 above, in accordance with
26 Health & Saf. Code sections 44012 and 44035, and California Code of
27 Regulations, title 16, section 3340.42.

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- c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS unit by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.
- d. Section 3340.42: Respondent failed to conduct the required smog tests on vehicles 1 through 3, identified in paragraph 23 above, in accordance with the Bureau's specifications.

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

31. Respondent Chau Nguyen's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 3, identified in paragraph 23 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SURVEILLANCE OPERATION OF AUGUST 24, 2005

32. On August 24, 2005, a representative of the Bureau conducted a surveillance operation at Respondent Hien Nguyen's smog check station located in Garden Grove, California. The Bureau determined through the surveillance operation and information obtained from the EIS and the Bureau's VID that Respondent Chau Nguyen issued electronic smog certificates of compliance on behalf of Respondent Hien Nguyen, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Chau Nguyen conducted the inspections using clean-piping methods, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

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| Time of Smog Inspection | Vehicle Certified | Certificate No. | Vehicle(s) Actually Tested |
|-------------------------|--------------------------------------|-----------------|---------------------------------|
| 1. 11:52 - 12:38 | 1997 Ford Escort; no plates | FX515812C | Toyota pickup; License #5D57456 |
| 2. 12:43 - 13:02 | 1992 Toyota pickup; License #7C40125 | FX515813C | Toyota pickup; License #5D57456 |
| 3. 14:25 - 15:03 | 1993 Toyota Camry; License #3WID805 | FX515815C | Toyota pickup; License #5D57456 |

SEVENTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

33. Respondent Hien Nguyen's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made statements which he knew, or in the exercise of reasonable care, should have known to be untrue or misleading. Respondent Hien Nguyen certified that vehicles 1 through 3, identified in paragraph 32 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Chau 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.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

34. Respondent Hien Nguyen's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 3, identified in paragraph 32 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 NINETEENTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 35. Respondent Hien Nguyen's smog check station license is subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he
5 failed to comply with the following sections of that Code:

- 6 a. Section 44012: Respondent failed to perform emission control tests on
7 vehicles 1 through 3, identified in paragraph 32 above, in accordance with
8 procedures prescribed by the department.
- 9 b. Section 44015: Respondent issued electronic smog certificates of
10 compliance for 1 through 3, identified in paragraph 32 above, without
11 properly testing and inspecting the vehicles to determine if they were in
12 compliance with Health & Saf. Code section 44012.
- 13 c. Section 44059: Respondent willfully made false entries in order to issue
14 electronic smog certificates of compliance for vehicles 1 through 3,
15 identified in paragraph 32 above.

16 TWENTIETH CAUSE FOR DISCIPLINE

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

19 36. Respondent Hien Nguyen's smog check station license is subject to
20 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he
21 failed to comply with the following sections of California Code of Regulations, title 16:

- 22 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
23 issued electronic smog certificates of compliance for vehicles 1 through 3,
24 identified in paragraph 32 above.
- 25 b. Section 3340.35, subdivision (c): Respondent issued electronic smog
26 certificates of compliance for vehicles 1 through 3, identified in paragraph
27 32 above, even though those vehicles had not been inspected in
28 accordance with California Code of Regulations, title 16, section 3340.42.

1 c. Section 3340.41, subdivision (c): Respondent entered false information
2 into the EIS unit by entering vehicle identification information or emission
3 control system identification data for vehicles other than the ones being
4 tested.

5 d. Section 3340.42: Respondent failed to conduct the required smog tests on
6 vehicles 1 through 3, identified in paragraph 32 above, in accordance with
7 the Bureau's specifications.

8 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

10 37. Respondent Hien Nguyen's smog check station license is subject to
11 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that
12 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
13 issuing electronic smog certificates of compliance for vehicles 1 through 3, identified in
14 paragraph 32 above, without performing bona fide inspections of the emission control devices
15 and systems on the vehicles, thereby depriving the People of the State of California of the
16 protection afforded by the Motor Vehicle Inspection Program.

17 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

19 38. Respondent Chau Nguyen's advanced emission specialist technician
20 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
21 subdivision (a), in that Respondent failed to comply with the following sections of that Code:

22 a. Section 44012: Respondent failed to perform emission control tests on
23 vehicles 1 through 3, identified in paragraph 32 above, in accordance with
24 procedures prescribed by the department.

25 b. Section 44059: Respondent willfully made false entries in order to issue
26 electronic smog certificates of compliance for vehicles 1 through 3,
27 identified in paragraph 32 above.

1 TWENTY-THIRD CAUSE FOR DISCIPLINE

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

4 39. Respondent Chau Nguyen's advanced emission specialist technician
5 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
6 subdivision (c), in that Respondent failed to comply with the following sections of California
7 Code of Regulations, title 16:

- 8 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
9 issued electronic smog certificates of compliance for vehicles 1 through 3,
10 identified in paragraph 32 above.
- 11 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test
12 vehicles 1 through 3, identified in paragraph 32 above, in accordance with
13 Health & Saf. Code sections 44012 and 44035, and California Code of
14 Regulations, title 16, section 3340.42.
- 15 c. Section 3340.41, subdivision (c): Respondent entered false
16 information into the EIS unit by entering vehicle identification
17 information or emission control system identification data for vehicles
18 other than the ones being tested.
- 19 d. Section 3340.42: Respondent failed to conduct the required smog tests on
20 vehicles 1 through 3, identified in paragraph 32 above, in accordance with
21 the Bureau's specifications.

22 TWENTY-FOURTH CAUSE FOR DISCIPLINE

23 (Dishonesty, Fraud or Deceit)

24 40. Respondent Chau Nguyen's advanced emission specialist technician
25 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
26 subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby
27 another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 3,
28 identified in paragraph 32 above, without performing bona fide inspections of the emission

1 control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 SURVEILLANCE OPERATION OF AUGUST 31, 2005

4 41. On August 31, 2005, a representative of the Bureau conducted a
5 surveillance operation at Respondent Hien Nguyen's smog check station located in Garden
6 Grove, California. The Bureau determined through the surveillance operation and information
7 obtained from the EIS and the Bureau's VID that Respondent Chau Nguyen issued electronic
8 smog certificates of compliance on behalf of Respondent Hien Nguyen, certifying that he had
9 tested and inspected the vehicles identified below and that the vehicles were in compliance with
10 applicable laws and regulations. In fact, Respondent Chau Nguyen conducted the inspections
11 using clean-piping methods, resulting in the issuance of fraudulent certificates of compliance for
12 the vehicles.

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| 14 Time of Smog Inspection | Vehicle Certified | Certificate No. | Vehicle(s) Actually Tested |
|----------------------------|--|-----------------|----------------------------|
| 15 1. 11:27 - 11:55 | 1986 Toyota MR2; License #4VPF180 | FX685869C | Mitsubishi truck |
| 16 2. 12:00 - 12:25 | 1992 Mitsubishi Diamante; License #2XME720 | FX685870C | Minivan |

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18 TWENTY-FIFTH CAUSE FOR DISCIPLINE

19 (Untrue or Misleading Statements)

20 42. Respondent Hien Nguyen's automotive repair dealer registration is subject
21 to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
22 Respondent made statements which he knew, or in the exercise of reasonable care, should have
23 known to be untrue or misleading. Respondent Hien Nguyen certified that vehicles 1 and 2,
24 identified in paragraph 41 above, had passed inspection and were in compliance with applicable
25 laws and regulations. In fact, Respondent Chau Nguyen used clean-piping methods in order to
26 issue certificates for the vehicles and did not test or inspect the vehicles as required by Health &
27 Saf. Code section 44012.

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1 TWENTY-EIGHTH CAUSE FOR DISCIPLINE

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

4 45. Respondent Hien Nguyen's smog check station license is subject to
5 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he
6 failed to comply with the following sections of California Code of Regulations, title 16:

- 7 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
8 issued electronic smog certificates of compliance for vehicles 1 and 2,
9 identified in paragraph 41 above.
- 10 b. Section 3340.35, subdivision (c): Respondent issued electronic smog
11 certificates of compliance for vehicles 1 and 2, identified in paragraph
12 41 above, even though those vehicles had not been inspected in
13 accordance with California Code of Regulations, title 16, section 3340.42.
- 14 c. Section 3340.41, subdivision (c): Respondent entered false information
15 into the EIS unit by entering vehicle identification information or emission
16 control system identification data for vehicles other than the ones being
17 tested.
- 18 d. Section 3340.42: Respondent failed to conduct the required smog tests on
19 vehicles 1 and 2, identified in paragraph 41 above, in accordance with
20 the Bureau's specifications.

21 TWENTY-NINTH CAUSE FOR DISCIPLINE

22 (Dishonesty, Fraud or Deceit)

23 46. Respondent Hien Nguyen's smog check station license is subject to
24 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that
25 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
26 issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 41
27 above, without performing bona fide inspections of the emission control devices and systems on

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

3 **THIRTIETH CAUSE FOR DISCIPLINE**

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

5 47. Respondent Chau Nguyen's advanced emission specialist technician
6 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
7 subdivision (a), in that Respondent failed to comply with the following sections of that Code:

- 8 a. **Section 44012:** Respondent failed to perform emission control tests on
9 vehicles 1 and 2, identified in paragraph 41 above, in accordance with
10 procedures prescribed by the department.
- 11 b. **Section 44059:** Respondent willfully made false entries in order to issue
12 electronic smog certificates of compliance for vehicles 1 and 2, identified
13 in paragraph 41 above.

14 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

17 48. Respondent Chau Nguyen's advanced emission specialist technician
18 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
19 subdivision (c), in that Respondent failed to comply with the following sections of California
20 Code of Regulations, title 16:

- 21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
22 issued electronic smog certificates of compliance for vehicles 1 and 2,
23 identified in paragraph 41 above.
- 24 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
25 vehicles 1 and 2, identified in paragraph 41 above, in accordance with
26 Health & Saf. Code sections 44012 and 44035, and California Code of
27 Regulations, title 16, section 3340.42.

1 c. Section 3340.41, subdivision (c): Respondent entered false
2 information into the EIS unit by entering vehicle identification
3 information or emission control system identification data for vehicles
4 other than the ones being tested.

5 d. Section 3340.42: Respondent failed to conduct the required smog tests on
6 vehicles 1 and 2, identified in paragraph 41 above, in accordance with
7 the Bureau's specifications.

8 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

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

10 49. Respondent Chau Nguyen's advanced emission specialist technician
11 license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
12 subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby
13 another is injured by issuing electronic smog certificates of compliance for vehicles 1 and 2,
14 identified in paragraph 41 above, without performing bona fide inspections of the emission
15 control devices and systems on the vehicles, thereby depriving the People of the State of
16 California of the protection afforded by the Motor Vehicle Inspection Program.

17 **OTHER MATTERS**

18 50. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
19 Director may invalidate temporarily or permanently, the registrations for all places of business
20 operated in this state by Respondent Hien Nguyen, owner of Smog Test Only Center, upon a
21 finding that said Respondent has, or is, engaged in a course of repeated and willful violations of
22 the laws and regulations pertaining to an automotive repair dealer.

23 51. Pursuant to Health & Saf. Code section 44072.8, if Smog Check (Test
24 Only) Station License Number TB 209495, issued to Respondent Hien Nguyen, owner of Smog
25 Test Only Center, is revoked or suspended, any additional license issued under this chapter in the
26 name of said licensee may be likewise revoked or suspended by the director.

27 52. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission
28 Specialist Technician License Number EA 147522, issued to Respondent Chau Duc Nguyen, is

1 revoked or suspended, any additional license issued under this chapter in the name of said
2 licensee may be likewise revoked or suspended by the director.

3 PRAYER

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer
7 Registration Number AB 209495, issued to Hien H. Nguyen, also known as Hien Huu Nguyen,
8 owner of Smog Test Only Center;

9 2. Temporarily or permanently invalidating any other automotive repair
10 dealer registration issued to Hien H. Nguyen, also known as Hien Huu Nguyen;

11 3. Revoking or suspending Smog Check (Test Only) Station License Number
12 TB 209495, issued to Hien H. Nguyen, also known as Hien Huu Nguyen, owner of Smog Test
13 Only Center;

14 4. Revoking or suspending any additional license issued under Chapter 5 of
15 the Health and Safety Code in the name of Hien H. Nguyen, also known as Hien Huu Nguyen;

16 5. Revoking or suspending Advanced Emission Specialist Technician
17 License Number EA 147522, issued to Chau Duc Nguyen,

18 6. Revoking or suspending any additional license issued under Chapter 5 of
19 the Health and Safety Code in the name of Chau Duc Nguyen;

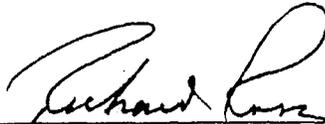
20 7. Ordering Respondents Hien H. Nguyen, also known as Hien Huu Nguyen,
21 owner of Smog Test Only Center, and/or Chau Duc Nguyen to pay the Director of Consumer

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1 Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to
2 Business and Professions Code section 125.3;

3 8. Taking such other and further action as deemed necessary and proper.

4 DATED: 2.1.06

5 
6 RICHARD ROSS
7 Chief
8 Bureau of Automotive Repair
9 Department of Consumer Affairs
10 State of California

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28 Complainant