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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 Accusation Against:

13 **THOMAS THANH NGUYEN**
14 **6191 Darlington Avenue**
Buena Park, CA 90621

15 **Advanced Emission Specialist Technician**
16 **License No. EA 151355 (to be redesignated**
upon renewal as EO 151355 and/or EI
17 **151355)**

18 Respondent.

Case No. **79/14-81**

A C C U S A T I O N
(SMOG CHECK)

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20 Complainant alleges:

21 **PARTIES**

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

24 2. In 2005, the Bureau of Automotive Repair issued Advanced Emission Specialist
25 Technician License Number EA 151355 to Thomas Thanh Nguyen (Respondent). The Advanced
26 Emission Specialist Technician License expired on February 28, 2013, and has not been

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1 renewed. Upon renewal of the license, the license will be redesignated as EO 151355 and/or EI
2 151355.¹

3 JURISDICTION

4 3. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
5 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
6 the Motor Vehicle Inspection Program.

7 4. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
8 expiration or suspension of a license by operation of law, or by order or decision of the Director
9 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
10 the Director of jurisdiction to proceed with disciplinary action.

11 5. California Code of Regulations, title 16 (Regulations), section 3340.28,
12 subdivision (e), states that "[u]pon renewal of an unexpired Basic Area Technician license or an
13 Advanced Emission Specialist Technician license issued prior to the effective date of this
14 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair
15 Technician, or both."

16 STATUTORY PROVISIONS

17 6. Section 44045.6 of the Health and Safety Code states, in pertinent part:

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19 (c) The department may require remedial training at a certified training
20 facility or may take disciplinary action, whichever the department determines to
21 be the most appropriate, for any licensed technician who the department
22 determines cannot perform inspections, testing, or repairs as required under the
23 program. The failure to complete the remedial training when required by the
24 department shall be a ground for revocation or suspension of a smog check
25 technician' s license under Section 44072.2.

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26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to
Smog Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 **CAUSE FOR DISCIPLINE**

2 **(Failure to Complete Remedial Training)**

3 10. Respondent has subjected his advanced emission specialist technician license to
4 discipline pursuant to Health and Safety Code sections 44072.2 and 44045.6, subdivision (c), for
5 failure to complete remedial training when required by the department. The circumstances are
6 that on November 17, 2010, the Bureau issued Citation No. M2011-0630 to Respondent against
7 his advanced emission specialist technician license for violations of Health and Safety Code
8 (HSC) section 44032, failure of a qualified technician to perform tests of emission control
9 systems and devices in accordance with section HSC section 44012 and California Code of
10 Regulations (CCR), title 16, section 3340.30, subdivision (a); and failure of a qualified
11 technician to inspect, test, and repair vehicles in accordance with section HSC sections 44012
12 and 44035 and CCR section 3340.42. The Bureau directed Respondent to complete an eight-hour
13 training course with proof of completion to be submitted to the Bureau within 30 days from the
14 receipt of the citation. On December 17, 2010, the Bureau served Respondent with the citation.
15 On January 17, 2011, the citation became effective. Respondent did not complete the required
16 training course and did not submit proof of completion of the course to the Bureau. Neither did
17 Respondent appeal the citation.

18 **OTHER MATTER**

19 11. Under Health and Safety Code section 44072.8, if advanced emission specialist
20 technician license number EA 151355 (to be redesignated upon renewal as EO 151355 and/or EI
21 151355), issued to Thomas Thanh Nguyen, is revoked or suspended, any additional license
22 issued under this chapter in the name of said licensee may be likewise revoked or suspended by
23 the director.

24 **PRAYER**

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

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1 1. Revoking or suspending Advanced Emission Specialist Technician License
2 Number EA 151355 (to be redesignated upon renewal as EO 151355 and/or EI 151355), issued
3 to Thomas Thanh Nguyen;

4 2. Revoking or suspending any additional license issued under Chapter 5 of the
5 Health and Safety Code in the name of Thomas Thanh Nguyen;

6 3. Ordering Thomas Thanh Nguyen to pay the Bureau of Automotive Repair the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

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

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DATED: January 8, 2014



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

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