

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

In the Matter of the Accusation Against:

THOMAS THANH NGUYEN
6191 Darlington Avenue
Buena Park, CA 90621

and

11781 Wutzke Street
Garden Grove, CA 92845

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

Case No. 79/14-81

Respondent.

DECISION

The attached Stipulation for Revocation of License and 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 May 9, 2014.

DATED: APR 18 2014


DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/14-81

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

STIPULATION FOR REVOCATION OF
LICENSE AND ORDER

15 **and**

16 **11781 Wutzke Street**
Garden Grove, CA 92845

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

20
21 Respondent.

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
27 brought this action solely in his official capacity and is represented in this matter by Kamala D.
28

1 Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
2 General.

3 2. Respondent Thomas Thanh Nguyen (Respondent) is representing himself in this
4 proceeding and has chosen not to exercise his right to be represented by counsel.

5 3. On or about January 1, 2005, the Bureau of Automotive Repair issued Advanced
6 Emission Specialist Technician License No. EA 151355 to Thomas Thanh Nguyen (Respondent).
7 The Advanced Emission Specialist Technician License expired on February 28, 2013, and has not
8 been renewed.

9 **JURISDICTION**

10 4. Accusation No. 79/14-81 was filed before the Director of Consumer Affairs
11 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
12 Respondent. The Accusation and all other statutorily required documents were properly served
13 on Respondent on January 14, 2014. Respondent timely filed his Notice of Defense contesting
14 the Accusation.

15 5. A copy of Accusation No. 79/14-81 is attached as Exhibit A and incorporated herein
16 by reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, and understands the charges and allegations in
19 Accusation No. 79/14-81. Respondent has also carefully read, and understands the effects of this
20 Stipulation for Revocation of License and Order.

21 7. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
23 his own expense; the right to confront and cross-examine the witnesses against him; the right to
24 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
25 the attendance of witnesses and the production of documents; the right to reconsideration and
26 court review of an adverse decision; and all other rights accorded by the California
27 Administrative Procedure Act and other applicable laws.

28 ///

1 License and Order may not be altered, amended, modified, supplemented, or otherwise changed
2 except by a writing executed by an authorized representative of each of the parties.

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

6 **ORDER**

7 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No. EA
8 151355 issued to Respondent Thomas Thanh Nguyen (Respondent) is revoked.

9 1. The revocation of Respondent's Advanced Emission Specialist Technician License
10 No. EA 151355 shall constitute the imposition of discipline against Respondent. This stipulation
11 and order constitute a record of the discipline and shall become a part of Respondent's license
12 history with the Bureau.

13 2. Respondent shall lose all rights and privileges as an Advanced Emission Specialist
14 Technician in California as of the effective date of the Director's Decision and Order.

15 3. Respondent shall cause to be delivered to the Bureau his Advanced Emission
16 Specialist Technician License on or before the effective date of the Decision and Order.

17 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
18 California, the Bureau shall treat it as a new application for licensure. Respondent must comply
19 with all the laws, regulations and procedures for licensure in effect at the time the application or
20 petition is filed, and all of the charges and allegations contained in Accusation No. 79/14-81 shall
21 be deemed to be true, correct and admitted by Respondent when the Director determines whether
22 to grant or deny the application or petition.

23 5. Respondent shall pay the Bureau its costs of investigation and enforcement in the
24 amount of \$820.00, at the time of application for a new registration or license issued by the
25 Bureau.

26 **ACCEPTANCE**

27 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
28 stipulation and the effect it will have on my Advanced Emission Specialist Technician License.

1 I enter into this Stipulation for Revocation of License and Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
3 Affairs.

4
5 DATED:

03/21/14


THOMAS THANH NGUYEN
Respondent

6
7
8 **ENDORSEMENT**

9 The foregoing Stipulation for Revocation of License and Order is hereby respectfully
10 submitted for consideration by the Director of Consumer Affairs

11 Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

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16 DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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1 I enter into this Stipulation for Revocation of License and Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
3 Affairs.

4
5 DATED: _____

6 THOMAS THANH NGUYEN
7 Respondent

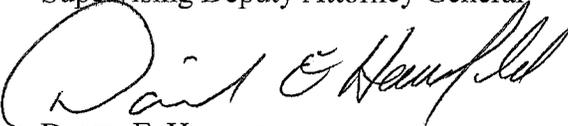
8 **ENDORSEMENT**

9 The foregoing Stipulation for Revocation of License and Order is hereby respectfully
10 submitted for consideration by the Director of Consumer Affairs

11 Dated: 3/27/14

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 JAMES M. LEDAKIS
15 Supervising Deputy Attorney General

16 
17 DAVID E. HAUSFELD
18 Deputy Attorney General
19 *Attorneys for Complainant*

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Exhibit A

Accusation No. 79/14-81

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3 LINDA K. SCHNEIDER
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14 **6191 Darlington Avenue**
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15 **Advanced Emission Specialist Technician**
16 **License No. EA 151355 (to be redesignated**
upon renewal as EO 151355 and/or EI
17 **151355)**

ACCUSATION
(SMOG CHECK)

18 Respondent.

19
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

27 ///

28 ///

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:

18

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.

26

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
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. Revoking or suspending Advanced Emission Specialist Technician License Number EA 151355 (to be redesignated upon renewal as EO 151355 and/or EI 151355), issued to Thomas Thanh Nguyen;

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

3. Ordering Thomas Thanh 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: January 8, 2014



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

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