

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHEILA J. VASANTHARAM
Deputy Attorney General
4 State Bar No. 289217
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2141
Facsimile: (510) 622-2270
7 E-mail: Sheila.Vasantharam@doj.ca.gov
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 79/15-62

13 **TRUNG HOANG DANG**
1239 Medley Drive
14 San Jose, CA 95121

ACCUSATION

15 **Advanced Emission Specialist Technician**
16 **License No. EA 633327**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about June 30, 2011, the Bureau of Automotive Repair issued Advanced
23 Emission Specialist Technician License Number EA 633327 to Trung Hoang Dang (Respondent).

24 The Advanced Emission Specialist Technician License was due to expire on May 31, 2013.

25 However, the Advanced Emission Specialist Technician License was suspended on April 23,
26 2012, and has not been renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau of Automotive Repair (Bureau), under the authority of the following laws.

4 4. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
5 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
6 proceeding against an automotive repair dealer or to render a decision invalidating a registration
7 temporarily or permanently.

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

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

15 **STATUTORY PROVISIONS**

16 7. Section 44072.2 of the Health and Safety Code states, in pertinent part:

17 "The director may suspend, revoke, or take other disciplinary action against a license as
18 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the
19 following:

20 "(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and
21 Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the
22 licensed activities.

23 . . .

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

25 8. Section 44045.6 of the Health and Safety Code states, in pertinent part:

26 "(c) The department may require remedial training at a certified training facility or may
27 take disciplinary action, whichever the department determines to be the most appropriate, for any
28 licensed technician who the department determines cannot perform inspections, testing, or repairs

1 as required under the program. The failure to complete the remedial training when required by
2 the department shall be a ground for revocation or suspension of a smog check technician's
3 license under Section 44072.2."

4 9. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

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

8 **COST RECOVERY PROVISION**

9 10. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
13 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
14 may be included in a stipulated settlement.

15 **FACTUAL BACKGROUND**

16 11. On January 25, 2012, Respondent issued Certificate of Compliance [REDACTED] to a
17 Bureau undercover vehicle with a missing "positive crankcase ventilation" valve. This vehicle
18 had a tampered emission control system and Respondent should not have issued a Certificate of
19 Compliance for the vehicle.

20 12. On February 23, 2012, the Bureau issued Citation #M2012-1017 to Respondent for
21 conferring a Certificate of Compliance on a noncomplying vehicle. On March 13, 2012, the
22 Bureau served the Citation on Respondent at a conference in San Jose. Under the terms of the
23 Citation, the Bureau required Respondent to complete an eight-hour training course and submit
24 proof of completion to the Bureau within 30 days of receipt of the Citation. If Respondent failed
25 to comply with this requirement, the Bureau would suspend his technician qualification.

26 13. Respondent did not appeal the Citation and it became effective on April 12, 2012.
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1 14. Respondent failed to comply with the terms of the Citation and submit proof that he
2 had completed the required training within the allotted time period. On April 23, 2012, the
3 Bureau suspended Respondent's Advanced Emission Specialist License.

4 **CAUSE FOR DISCIPLINE**

5 (Failure to Complete Training)

6 (Health & Saf. Code, §§ 44072.2, subd. (a), 44045.6, subd. (c); Cal. Code Regs., Tit. 16, §
7 3340.24, subd. (d))

8 15. Respondent has subjected his license to disciplinary action because he failed to
9 complete remedial training when required to by the Bureau. (Health & Saf. Code, §§ 44072.2,
10 subd. (a), 44045.6, subd. (c); Cal. Code Regs., Tit. 16, § 3340.24, subd. (d).) The circumstances
11 are set forth in paragraphs 11 through 14, above.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

15 1. Revoking or suspending Advanced Emission Specialist Technician License Number
16 EA 633327, issued to Trung Hoang Dang;

17 2. Ordering Trung Hoang Dang to pay the Bureau of Automotive Repair the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions
19 Code section 125.3; and

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

21
22 DATED: October 29, 2014



23 PATRICK DORAIS
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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