

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

In the Matter of the Accusation Against:

**ALL SMOG STATION INC,
BICH DUONG, PRESIDENT, SECRETARY,
TREASURER**

3301 East Chapman Avenue, Suite D
Orange, CA 92869

Automotive Repair Dealer Registration No.
ARD 263337

Smog Check-Test Only Station License No.
TC 263337

BICH DUONG

43 Shea Ridge
Rancho Santa Margarita, CA 92688

Smog Check Inspector License No.
EO148012 (formerly Advanced Emission
Specialist Technician License No. EA148012)

Repair Technician License No. EI148012

Respondents.

Case No. 79/15-7

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; except that the following typographical errors are corrected as follows:

Page 2, lines 13 and 18: The expiration date of "September 30,
2014" is corrected to "September 30, 2015."

The suspension of Automotive Repair Dealer Registration No. ARD 263337, Smog Check-Test Only Station License No. TC 263337, Smog Check Inspector License No. EO148012, and Repair Technician License No. EI148012 shall commence on the effective date of this Decision.

This Decision shall become effective

December 30, 2014

DATED: December 4, 2014



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 MANUEL ARAMBULA
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:
14 **ALL SMOG STATION INC, BICH**
15 **DUONG, PRESIDENT, SECRETARY,**
16 **TREASURER**
17 **3301 East Chapman Avenue, Suite D**
18 **Orange, CA 92869**
19 **Automotive Repair Dealer Registration No.**
20 **ARD 263337**
21 **Smog Check-Test Only Station License No.**
22 **TC 263337**
23 **BICH DUONG**
24 **42 Shea Ridge**
25 **Rancho Santa Margarita, CA 92688**
26 **Smog Check Inspector License No.**
27 **EO148012 (formerly Advanced Emission**
28 **Specialist Technician License No.**
EA148012)
Repair Technician License No. EI148012

Respondents

Case No. 79/15-7

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibilities of the Director of Consumer Affairs and the Bureau of

1 Automotive Repair the parties hereby agree to the following Stipulated Settlement and
2 Disciplinary Order which will be submitted to the Director for the Director's approval and
3 adoption as the final disposition of Accusation No. 79/15-7.

4 **PARTIES**

5 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
6 brought this action solely in his official capacity and is represented in this matter by Kamala D.
7 Harris, Attorney General of the State of California, by Manuel Arambula, Deputy Attorney
8 General.

9 2. On or about September 21, 2010, the Bureau of Automotive Repair issued
10 Automotive Repair Dealer Registration No. ARD 263337 to All Smog Station Inc, Bich Duong,
11 President, Secretary, Treasurer (Respondent). The Automotive Repair Dealer Registration was in
12 full force and effect at all times relevant to the charges brought in Accusation No. 79/15-7 and
13 will expire on September 30, 2014, unless renewed.

14 3. On or about September 30, 2010, the Bureau of Automotive Repair issued Smog
15 Check-Test Only Station License No. TC 263337 to All Smog Station Inc, Bich Duong,
16 President, Secretary, Treasurer (Respondent). The Smog Check-Test Only Station License was in
17 full force and effect at all times relevant to the charges brought in Accusation No. 79/15-7 and
18 will expire on September 30, 2014, unless renewed.

19 **JURISDICTION**

20 4. Accusation No. 79/15-7 was filed before the Director of Consumer Affairs (Director),
21 for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The
22 Accusation and all other statutorily required documents were properly served on Respondent on
23 July 17, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

24 5. A copy of Accusation No. 79/15-7 is attached as exhibit A and incorporated herein by
25 reference.

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1 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 13. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Director may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 263337
15 and Smog Check-Test Only Station License No. TC 263337 issued to Respondent All Smog
16 Station Inc, Bich Duong, President, Secretary, Treasurer (Respondent) are revoked. However, the
17 revocations are stayed and Respondent is placed on probation for three (3) years on the following
18 terms and conditions.

19 IT IS FURTHER ORDERED that Smog Check Inspector License No. EO148012 and
20 Repair Technician License No. EI148012 issued to Respondent Bich Duong are revoked.
21 However, the revocations are stayed and Respondent is placed on probation for three (3) years on
22 the following terms and conditions.

23 1. Actual Suspension. Automotive Repair Dealer Registration No. ARD 263337, Smog
24 Check-Test Only Station License No. TC 263337, Smog Check Inspector License No.
25 EO148012, and Repair Technician License No. EI148012 and are suspended for 15 days.

26 2. Obey All Laws. Respondent shall comply with all statutes, regulations and rules
27 governing automotive inspections, estimates and repairs.
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1 3. Reporting. Respondent must report in person or in writing as prescribed by the
2 Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each
3 quarter, on the methods used and success achieved in maintaining compliance with the terms and
4 conditions of probation.

5 4. Random Inspections. Respondent shall provide Bureau representatives unrestricted
6 access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of
7 completion.

8 5. Jurisdiction. If an accusation is filed against Respondent during the term of
9 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
10 until the final decision on the accusation, and the period of probation shall be extended until such
11 decision.

12 6. Violation of Probation. Should the Director of Consumer Affairs determine that
13 Respondent has failed to comply with the terms and conditions of probation, the Department may,
14 after giving notice and opportunity to be heard, suspend or revoke all licenses.

15 7. Continuing Education Courses. During the period of probation, Respondent shall
16 attend and successfully complete a Bureau certified Licensed Inspector Training Course (Level
17 1). Said course shall be completed and proof of completion submitted to the Bureau within 180
18 days of the effective date of this decision and order. If proof of completion of the course is not
19 furnished to the Bureau within the 180-day period, Respondent's Automotive Repair Dealer
20 Registration and Smog Check-Test Only Station License shall be immediately suspended until
21 such proof is received.

22 8. Cost Recovery. Respondent shall make payment to the Bureau of the full amount of
23 cost recovery of \$11,545.55 in 24 monthly payments of \$481.07 on the first day of each month.
24 The final payment shall be paid to the Bureau no later than 12 months before probation
25 terminates. Failure to complete payment of cost recovery within this timeframe shall constitute a
26 violation of probation which may subject Respondent's licenses to outright revocation; however,
27 the Director or the Director's Bureau of Automotive Repair designee may elect to continue
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1 probation until such time as reimbursement of the entire cost recovery amount has been made to
2 the Bureau.

3 ACCEPTANCE

4 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
5 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
6 Affairs.

7
8 DATED: 9/24/2014 Bich Duong
9 ALL SMOG STATION INC, BICH DUONG,
10 PRESIDENT, SECRETARY, TREASURER
11 Authorized Agent for Respondent

12 BICH DUONG
13 Respondent

14 ENDORSEMENT

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

17
18 Dated: 9/24/2014 Respectfully submitted,
19 KAMALA D. HARRIS
20 Attorney General of California
21 LINDA K. SCHNEIDER
22 Supervising Deputy Attorney General
23 Manuel Arambula
24 MANUEL ARAMBULA
25 Deputy Attorney General
26 *Attorneys for Complainant*

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Exhibit A

Accusation No. 79/15-7

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
10 **STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. **79/15-7**

13 **ALL SMOG STATION INC, BICH**
14 **DUONG, PRESIDENT, SECRETARY,**
TREASURER
15 **3301 East Chapman Avenue, Suite D**
Orange, CA 92869

A C C U S A T I O N

16 **Automotive Repair Dealer Registration No.**
ARD 263337
17 **Smog Check-Test Only Station License No.**
TC 263337

18 **BICH DUONG**
19 **42 Shea Ridge**
Rancho Santa Margarita, CA 92688

20 **Smog Check Inspector License No.**
21 **EO148012 (formerly Advanced Emission**
Specialist Technician License No.
22 **EA148012**

23 **Repair Technician License No. EI148012**

24 Respondents.

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1 Complainant alleges:

2 **PARTIES**

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

5 **LICENSE INFORMATION**

6 2. On or about September 21, 2010, the Bureau of Automotive Repair issued
7 Automotive Repair Dealer Registration Number ARD 263337 to All Smog Station Inc, Bich
8 Duong, President, Secretary, Treasurer (Respondents). The Automotive Repair Dealer
9 Registration was in full force and effect at all times relevant to the charges brought herein and
10 will expire on September 30, 2014, unless renewed.

11 3. On or about September 30, 2010, the Bureau of Automotive Repair issued Smog
12 Check-Test Only Station License Number TC 263337 to All Smog Station Inc, Bich Duong,
13 President, Secretary, Treasurer (Respondent). The Smog Check-Test Only Station License was in
14 full force and effect at all times relevant to the charges brought herein and will expire on
15 September 30, 2014, unless renewed.

16 4. On a date uncertain in 2003, the Bureau of Automotive Repair issued Advanced
17 Emission Specialist Technician License Number EA 148012 to Bich Duong, (Respondent). The
18 Advanced Emission Specialist Technician License was in full force and effect at all times
19 relevant to the charges brought herein and was due to expire on January 31, 2014, but was
20 cancelled on October 17, 2013. Pursuant to California Code of Regulations, title 16 section
21 3340.28, subdivision (c), said license was renewed pursuant to Bich Duong's election as Smog
22 Check Inspector (EO) License No. 148012 and Smog Check Repair Technician (EI) License No.
23 148012, effective October 17, 2013. The Smog Check Inspector (EO) License and Smog Check
24 Repair Technician (EI) License will expire January 31, 2016.¹

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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.

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JURISDICTION

5. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 9884.7 of the Code states:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

.....
(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

.....
(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

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

8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

9. Section 44072.8 of the Health and Safety Code states:

"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."

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13. Section 44032 of the Code states:

3 No person shall perform, for compensation, tests or repairs of emission
4 control devices or systems of motor vehicles required by this chapter unless the
5 person performing the test or repair is a qualified smog check technician and the
6 test or repair is performed at a licensed smog check station. Qualified technicians
shall perform tests of emission control devices and systems in accordance with
Section 44012.

7 14. Section 3340.30, subsection (a), of the California Code of Regulations states:

8 A licensed smog check inspector and/or repair technician shall comply
9 with the following requirements at all times while licensed:

10 (a) Inspect, test and repair vehicles, as applicable, in accordance with
11 section 44012 of the Health and Safety Code, section 44035 of the Health and
Safety Code, and section 3340.42 of this article.

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15. Section 3340.45, subsection (a)(2), of the California Code of Regulations
states:

14 “(a) All Smog Check inspections shall be performed in accordance with requirements and
15 procedures prescribed in the following:

16
17

18 “(2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
manual shall become effective on or after January 1, 2013.”

19 **COST RECOVERY**

20 16. Code section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct the licentiate found to have committed a violation or violations
22 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **UNDERCOVER OPERATION**

25 17. On March 24, 2014, an undercover operator (“operator”) of the Bureau of
26 Automotive Repair (“Bureau”) took the Bureau’s documented 2002 Pontiac vehicle to
27 Respondent’s facility and requested a smog inspection. The AIR pump and the vacuum signal
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1 hose were removed and the AIR system components were capped on the 2002 Pontiac, such that
2 the vehicle should have failed the visual portion of the California ASM Smog Check. Prior to the
3 inspection, the operator received and signed a \$62.00 estimate for the Smog Check inspection.
4 Respondent began the inspection and showed the operator, by pointing directly to it, the hose that
5 had been capped off. Respondent then asked the operator if he worked for the state, to which the
6 operator replied that he did not. Thereafter, Respondent completed his inspection, charged
7 \$62.00, and provided a copy of the invoice and Vehicle Inspection report to the operator.

8 18. On March 26, 2014, the Bureau reinspected the 2002 Pontiac and found that the
9 vehicle's AIR pump and vacuum signal hose were still missing and the AIR system components
10 still capped. The Bureau found that the vehicle still failed the visual portion of the Smog Check
11 because of the vehicle's missing AIR system.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to Perform a Visual Check According to Procedures)**

14 19. Respondent's registration is subject to disciplinary action under Health and Safety
15 Code section 44012, subsection (f), in that Respondent failed to perform a visual/functional
16 check of the Bureau's 2002 Pontiac emission control devices according to procedures prescribed
17 by the Bureau, as detailed in paragraph 17, above.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Issuing a Smog Certificate to a Vehicle Not Meeting Requirements)**

20 20. Respondent's registration is subject to disciplinary action under Health and Safety
21 Code section 44015, subsection (b), in that Respondent issued a smog certificate to the Bureau's
22 2002 Pontiac when this vehicle's emissions did not meet the requirements of section 44012 of the
23 Health and Safety Code. Specifically, the vehicle's AIR pump and vacuum signal hose were
24 removed and AIR system components were capped at the time of the inspection, a fact noticed by
25 Respondent, which should have caused the vehicle to fail the visual inspection, as further detailed
26 in paragraph 17.

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1 checks on the Bureau's 2002 Pontiac emission control systems and devices in accordance with
2 section 44012, subsection (f) of the Health and Safety Code, which requires that all such tests "be
3 performed in accordance with procedures prescribed by the department," as further detailed in
4 paragraph 17.

5 SEVENTH CAUSE FOR DISCIPLINE

6 **(Failure to Perform Smog Check Inspection in Accordance with the Current Manual)**

7 25. Respondent's registration is subject to disciplinary action under California Code of
8 Regulations section 3340.45, subsection (b), in that Respondent failed to perform smog test
9 checks on the Bureau's 2002 Pontiac emission control systems and devices in accordance with
10 the Smog Check Manual, which became effective January 1, 2013, and as further detailed in
11 paragraph 17.

12 **DISCIPLINE CONSIDERATIONS**

13 26. To determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant alleges that on or about November 17, 2011, in a prior action, the Bureau of
15 Automotive Repair issued Citation Numbers C2012-0480 to All Smog Station, Inc. Respondent
16 was ordered to pay a \$1,000. The fine was paid on December 22, 2011. That Citation is now final
17 and is incorporated by reference as if fully set forth.

18 27. Complainant further alleges that on or about October 4, 2012, in a prior action, the
19 Bureau of Automotive Repair issued Citation Numbers C2013-0288 to All Smog Station, Inc.
20 Respondent was ordered to pay a \$2,000 fine. The fine was paid on November 19, 2012. That
21 Citation is now final and is incorporated by reference as if fully set forth.

22 28. Complainant further alleges that on or about May 22, 2013, in a prior action, the
23 Bureau of Automotive Repair issued Citation Numbers C2013-0664 All Smog Station Inc.
24 Respondent was ordered to pay a administrative fine of \$3,000 fine. The fine was paid on July 16,
25 2013. That Citation is now final and is incorporated by reference as if fully set forth.

26 29. On or about November 17, 2011, in a prior action, the Bureau of Automotive Repair
27 issued citation number M2012-0481 to technician Bich Duong. Respondent was to complete an 8-
28 Hour Training Course. Course was completed on December 21, 2011.

DATED: 7-16-14

Patrick DORAIS by Doug Balatti

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

Assist. Chief
Doug BALATTI

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