

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

In the Matter of the Accusation Against:

**THINH TRONG NGUYEN**  
8131 Larson Avenue #6  
Garden Grove, CA 92844

Smog Check Inspector License No. EO  
149867; Smog Check Repair Technician  
License No. EI 149867 (formerly Advanced  
Emission Specialist Technician No. EA  
149867)

Case No. 79/12-166

OAH No. 2012101003

Respondent.

**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.

The suspension of Smog Check Inspector License No. EO 149867 and Smog Check Repair Technician License No. EI 149867 shall commence on the effective date of this Decision.

This Decision shall become effective 6/24/13.

DATED: May 31, 2013

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
4 State Bar No. 267200  
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5 San Diego, CA 92101  
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E-mail: Adrian.Contreras@doj.ca.gov  
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **THINH TRONG NGUYEN**  
14 **8131 Larson Avenue #6**  
**Garden Grove, CA 92844**  
15 **Smog Check Inspector License No. EO**  
16 **149867; Smog Check Repair Technician**  
17 **License No. EI 149867 (formerly Advanced**  
**Emission Specialist Technician No. EA**  
**149867)**

18 Respondent.

Case No. 79/12-166

OAH No. 2012101003

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

19  
20 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
21 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of  
22 Automotive Repair the parties hereby agree to the following Stipulated Settlement and  
23 Disciplinary Order which will be submitted to the Director for the Director's approval and  
24 adoption as the final disposition of the Accusation solely with respect to Think Trong Nguyen.

25 PARTIES

26 1. John Wallauch (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 Adrian R. Contreras, Deputy Attorney  
2 General.

3 2. Respondent Think Trong Nguyen (Respondent) is represented in this proceeding by  
4 attorney Michael B. Levin, Esq., whose address is: 3727 Camino del Rio South, Suite 200  
5 San Diego, CA 92108-4035

6 3. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist  
7 Technician License Number EA 149867 to Think Trong Nguyen ("Respondent"). Respondent's  
8 advanced emission specialist technician license was due to expire on March 31, 2013. Pursuant  
9 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was  
10 renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO 149867  
11 and Smog Check Repair Technician License No. EI 149867, effective March 31, 2013.  
12 Respondent's smog check inspector license and smog check repair technician license will expire  
13 on March 31, 2015, unless renewed.<sup>1</sup>

#### 14 JURISDICTION

15 4. First Amended Accusation No. 79/12-166 was filed before the Director of Consumer  
16 Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending  
17 against Respondent. The Accusation and all other statutorily required documents were properly  
18 served on Respondent on April 12, 2013. Respondent timely filed his Notice of Defense  
19 contesting the Accusation.

20 5. A copy of First Amended Accusation No. 79/12-166 is attached as exhibit A and  
21 incorporated herein by reference.

#### 22 ADVISEMENT AND WAIVERS

23 6. Respondent has carefully read, fully discussed with counsel, and understands the  
24 charges and allegations in Accusation No. 79/12-166. Respondent has also carefully read, fully  
25

26 <sup>1</sup> 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 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
2 Order.

3 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
4 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
5 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
6 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
7 documents; the right to reconsideration and court review of an adverse decision; and all other  
8 rights accorded by the California Administrative Procedure Act and other applicable laws.

9 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
10 every right set forth above.

#### 11 CULPABILITY

12 9. Respondent admits the truth of each and every charge and allegation in Accusation  
13 No. 79/12-166.

14 10. Respondent agrees that Smog Check Inspector License No. EO 149867 and Smog  
15 Check Repair Technician License No. EI 149867 are subject to discipline and he agrees to be  
16 bound by the Director's probationary terms as set forth in the Disciplinary Order below.

#### 17 RESERVATION

18 11. The admissions made by Respondent herein are only for the purposes of this  
19 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of  
20 Automotive Repair, or other professional licensing agency is involved, and shall not be  
21 admissible in any other criminal or civil proceeding.

#### 22 CONTINGENCY

23 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
24 the Director's designee. Respondent understands and agrees that counsel for Complainant and the  
25 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of  
26 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
27 or participation by Respondent or his counsel. By signing the stipulation, Respondent  
28 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation

1 prior to the time the Director considers and acts upon it. If the Director fails to adopt this  
2 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
3 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
4 the parties, and the Director shall not be disqualified from further action by having considered  
5 this matter.

6 13. The parties understand and agree that email and facsimile copies of this Stipulated  
7 Settlement and Disciplinary Order, including email and facsimile signatures thereto, shall have  
8 the same force and effect as the originals.

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

15 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
16 the Director may, without further notice or formal proceeding, issue and enter the following  
17 Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 149867 and Smog  
20 Check Repair Technician License No. EI 149867 issued to Respondent Thinh Trong Nguyen  
21 (Respondent) are revoked. However, the revocation is stayed and Respondent is placed on  
22 probation for three (3) years on the following terms and conditions.

23 1. **Actual Suspension.** Smog Check Inspector License No. EO 149867 and Smog  
24 Check Repair Technician License No. EI 149867 issued to Respondent Thinh Trong Nguyen are  
25 suspended for five days.

26 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
27 automotive inspections, estimates and repairs.

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1           3.    **Reporting.** Respondent or Respondent's authorized representative must report in  
2 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
3 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
4 maintaining compliance with the terms and conditions of probation.

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

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

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

14          7.    **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery in the  
15 amount of \$4,495.80, payable in twenty four (24) equal installments of \$187.33 with the final  
16 payment due twelve (12) months before the termination of probation. Failure to complete  
17 payment of cost recovery within this time frame shall constitute a violation of probation which  
18 may subject Respondent's licenses to outright revocation; however, the Director or the Director's  
19 Bureau of Automotive Repair designee may elect to continue probation until such time as  
20 reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael B. Levin, Esq. I understand the stipulation and the effect it will have on my Smog Check Inspector License No. EO 149867 and Smog Check Repair Technician License No. EI 149867. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: \_\_\_\_\_  
THINH TRONG NGUYEN  
Respondent

I have read and fully discussed with Respondent Thinh Trong Nguyen the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_  
MICHAEL B. LEVIN, ESQ.  
Attorney for Respondent

ENDORSEMENT

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

Dated: 5/15/13

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
ADRIAN R. CONTRERAS  
Deputy Attorney General  
Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Michael B. Levin, Esq. I understand the stipulation and the effect  
4 it will have on my Smog Check Inspector License No. EO 149867 and Smog Check Repair  
5 Technician License No. EI 149867. I enter into this Stipulated Settlement and Disciplinary Order  
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
7 Director of Consumer Affairs.

8  
9 DATED: 05-15-13

  
THINH TRONG NGUYEN  
Respondent

11 I have read and fully discussed with Respondent Thinh Trong Nguyen the terms and  
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
13 I approve its form and content.

14 DATED: 5/15/13

  
MICHAEL B. LEVIN, ESQ.  
Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Director of Consumer Affairs.

20  
21 Dated:

Respectfully submitted,

22 KAMALA D. HARRIS  
Attorney General of California  
23 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

24  
25 ADRIAN R. CONTRERAS  
Deputy Attorney General  
26 Attorneys for Complainant

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28 SD2012802135

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**Exhibit A**

**First Amended Accusation No. 79/12-166**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
4 State Bar No. 267200  
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6 San Diego, CA 92186-5266  
Telephone: (619) 645-2634  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

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12 In the Matter of the Accusation Against:

Case No. 79/12-166

13 **THINH TRONG NGUYEN**  
14 **8131 Larson Avenue #6**  
**Garden Grove, CA 92844**

**FIRST AMENDED**  
**ACCUSATION**

15 **Smog Check Inspector License No. EO**  
**149867; Smog Check Repair Technician**  
16 **License No. EI 149867 (formerly Advanced**  
17 **Emission Specialist Technician No. EA**  
**149867)**

**SMOG CHECK**

18 Respondents.

19  
20 Complainant alleges:

21 **PARTIES**

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

24 **Think Trong Nguyen**

25 2. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist  
26 Technician License Number EA 149867 to Think Trong Nguyen ("Respondent"). Respondent's  
27 advanced emission specialist technician license was due to expire on March 31, 2013. Pursuant  
28 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was

1 renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO 149867  
2 and Smog Check Repair Technician License No. EI 149867, effective March 31, 2013.  
3 Respondent's smog check inspector license and smog check repair technician license will expire  
4 on March 31, 2015, unless renewed.<sup>1</sup>

### 5 JURISDICTION

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

8 4. Section 118, subdivision (b), of the Business and Professions Code (Code) provides  
9 that the suspension, expiration, surrender, or cancellation of a license shall not deprive the  
10 Director of jurisdiction to proceed with a disciplinary action during the period within which the  
11 license may be renewed, restored, reissued or reinstated.

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

15 6. Section 44072.4 of the Health and Safety Code states:

16 "The director may take disciplinary action against any licensee after a hearing as provided  
17 in this article by any of the following:

18 "(a) Imposing probation upon terms and conditions to be set forth by the director.

19 "(b) Suspending the license.

20 "(c) Revoking the license."

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

25 ///

26 <sup>1</sup> 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 **FIRST CAUSE FOR DISCIPLINE**

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

3 16. Respondent has subjected his licenses to discipline under Health and Safety Code  
4 section 44072.2, subdivision (a), in that on or about November 10, 2011, regarding the 1997  
5 Cadillac Seville, he violated sections of that code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent failed to determine that all emission  
7 control devices and systems required by law were installed and functioning correctly in  
8 accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent failed to perform emission control tests  
10 on that vehicle in accordance with procedures prescribed by the department.

11 c. **Section 44032:** Respondent failed to perform tests of the emission control devices  
12 and systems on that vehicle in accordance with section 44012 of that Code.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

15 17. Respondent has subjected his licenses to discipline under Health and Safety Code  
16 section 44072.2, subdivision (c), in that on or about November 10, 2011, regarding the 1997  
17 Cadillac Seville, he violated sections of the California Code of Regulations, title 16, as follows:

18 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test that vehicle  
19 in accordance with Health and Safety Code section 44012.

20 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the  
21 Emission Inspection System for electronic Certificate of Compliance No. [REDACTED] by  
22 entering "Pass" for the visual inspection of the PCV system when, in fact, the vehicle could not  
23 pass that portion of the inspection because the vehicle's PCV system was missing.

24 c. **Section 3340.42:** Respondent failed to conduct the required smog tests and  
25 inspections on that vehicle in accordance with the Bureau's specifications.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 18. Respondent has subjected his licenses to discipline under Health and Safety Code  
4 section 44072.2, subdivision (d), in that on or about November 10, 2011, regarding the 1997  
5 Cadillac Seville, he committed acts involving dishonesty, fraud or deceit whereby another was  
6 injured by issuing electronic Certificate of Compliance No. [REDACTED] without performing a  
7 bona fide inspection of the emission control devices and systems on that vehicle, thereby  
8 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
9 Inspection Program.

10 **PRIOR CITATIONS**

11 19. To determine the degree of penalty, if any, to be imposed upon Respondent,  
12 Complainant alleges, as follows:

13 a. On April 21, 2009, the Bureau issued Citation No. M09-1218 to Respondent against  
14 his technician license for violations of Health and Safety Code section 44032, (qualified  
15 technicians shall perform tests of emission control systems and devices in accordance with  
16 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
17 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
18 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
19 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition  
20 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend an  
21 8-hour training course. Respondent complied with this citation on June 3, 2009.

22 b. On August 31, 2009, the Bureau issued Citation No. M2010-0166 to Respondent  
23 against his technician license for violations of Health and Safety Code section 44032, (qualified  
24 technicians shall perform tests of emission control systems and devices in accordance with  
25 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
26 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
27 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
28 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition

1 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend a  
2 16-hour training course. Respondent complied with this citation on October 26, 2009.

3 c. On March 22, 2011, the Bureau issued Citation No. M2011-1126 to Respondent  
4 against his technician license for violations of Health and Safety Code section 44032, (qualified  
5 technicians shall perform tests of emission control systems and devices in accordance with  
6 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
7 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
8 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
9 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition  
10 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend a  
11 Basic Clean Air Car Course. Respondent complied with this citation on June 15, 2011.

12 **OTHER MATTERS**

13 20. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.  
14 EO 149867 and Smog Check Repair Technician License No. EI 149867, issued to Think Trong  
15 Nguyen, is/are revoked or suspended, any additional license issued under Chapter 5 of the Health  
16 and Safety Code in the name of said licensee may be likewise revoked or suspended by the  
17 director.

18 **PRAYER**

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

- 21 1. Revoking or suspending Smog Check Inspector License No. EO 149867 and Smog  
22 Check Repair Technician License No. EI 149867, issued to Think Trong Nguyen;
- 23 2. Revoking or suspending any additional license issued under Chapter 5 of the Health  
24 and Safety Code in the name of Think Trong Nguyen;
- 25 3. Ordering Think Trong Nguyen to pay the Bureau of Automotive Repair the  
26 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
27 Professions Code section 125.3; and,

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

DATED: April 12, 2012 ~~John Wallauch by Doug~~  
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*  
DOUG BALAH

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