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

In the Matter of the Petition to Revoke
Probation 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)

Respondent.

Case No. 79/16-43

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 20, 2015, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Petition to Revoke Probation No. 79/16-43 against Think Trong Nguyen (Respondent) before the Director of Consumer Affairs. (Petition to Revoke Probation attached as Exhibit A.)
2. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist Technician License Number EA 149867 to Think Trong Nguyen ("Respondent"). Respondent's advanced emission specialist technician license was due to expire on March 31, 2013. Under

1 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
2 renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO 149867
3 and Smog Check Repair Technician License No. EI 149867, effective March 29, 2013.
4 Respondent's smog check inspector license and smog check repair technician license expired on
5 March 31, 2015, and have not been renewed.

6 3. On or about December 2, 2015, Respondent was served by Certified and First Class
7 Mail copies of the Petition to Revoke Probation No. 79/16-43, Statement to Respondent, Notice
8 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
9 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
10 Professions Code section 136 and California Code of Regulations, title 16, section 3303.3, is
11 required to be reported and maintained with the Bureau. Respondent's address of record was and
12 is:

13 8131 Larson Avenue #6
14 Garden Grove, CA 92844.

15 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
16 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
17 Code section 124.

18 5. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
23 may nevertheless grant a hearing.

24 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
26 Petition to Revoke Probation No. 79/16-43.

27 7. California Government Code section 11520 states, in pertinent part:

28 (a) If the respondent either fails to file a notice of defense or to appear at the
hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

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This Decision shall become effective on May 4, 2016.

It is so ORDERED April 10, 2016



TAMARA COLSON
Assistant General Counsel
Division of Legal Affairs
Department of Consumer Affairs

81232834.DOC
DOJ Matter ID:SD2015802877

Attachment:
Exhibit A: Petition to Revoke Probation

Exhibit A

Petition to Revoke Probation

(THINH TRONG NGUYEN)

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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 Petition to Revoke
Probation Against:

Case No. **79/16-43**

14 **THINH TRONG NGUYEN**
15 **8131 Larson Avenue #6**
Garden Grove, CA 92844

PETITION TO REVOKE PROBATION

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

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Patrick Dorais (Complainant) brings this Petition to Revoke Probation solely in his
24 official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer
25 Affairs.

26 2. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist
27 Technician License Number EA 149867 to Thinh Trong Nguyen ("Respondent"). Respondent's
28 advanced emission specialist technician license was due to expire on March 31, 2013. Pursuant to

1 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed,
2 pursuant to Respondent's election, as Smog Check Inspector License No. EO 149867 and Smog
3 Check Repair Technician License No. EI 149867, effective March 29, 2013. Respondent's smog
4 check inspector license and smog check repair technician license expired on March 31, 2015, and
5 have not been renewed.¹

6 3. In a disciplinary action entitled "In the Matter of Accusation Against Think Trong
7 Nguyen," Case No. 79/12-166, the Director of Consumer Affairs for the Bureau of Automotive
8 Repair issued a decision, effective June 24, 2013, in which Respondent's smog check inspector
9 license and smog check repair technician license were revoked. However, the revocation was
10 stayed and Respondent's licenses were placed on probation for a period of three (3) years with
11 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
12 by reference.

13 JURISDICTION

14 4. This Petition to Revoke Probation is brought before the Director of the Department of
15 Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the
16 following laws.

17 5. At all relevant times to this Petition to Revoke Probation, Respondent's probationary
18 order included Condition 6, which stated:

19 "Should the Director of Consumer Affairs determine that Respondent has failed to comply
20 with the terms and conditions of probation, the Department may, after giving notice and
21 opportunity to be heard, suspend or revoke the licenses."

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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 TO REVOKE PROBATION**

2 **(Cost Recovery)**

3 6. At all times after the effective date of Respondent's probation, Condition 7 stated:

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

11 7. Respondent's probation is subject to revocation because he failed to comply with
12 Probation Condition 7, referenced above, in the following respect:

13 A. As of September 10, 2015, Respondent has made no payments of the Bureau's cost
14 recovery. Respondent still owes the Bureau the full amount of \$4,495.80.

15 **DISCIPLINE CONSIDERATIONS**

16 8. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that on or about June 24, 2013, in a prior disciplinary action entitled "In the
18 Matter of the Accusation Against Think Trong Nguyen" before the Director of Consumer Affairs
19 in Case No. 79/12-166, Respondent's licenses were placed on probation. That decision is now
20 final and is incorporated by reference as if fully set forth.

21 **OTHER MATTERS**

22 9. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.
23 EO 149867 and Smog Check Repair Technician License No. EI 149867, issued to Think Trong
24 Nguyen, is revoked or suspended, any additional license issued under the Motor Vehicle
25 Inspection Program in the name of said licensee may be likewise revoked or suspended by the
26 director.

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PRAYER

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

1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case 79/12-166 and imposing the disciplinary order that was stayed thereby revoking Smog Check Inspector License No. EO 149867 and Smog Check Repair Technician License No. EI 149867 issued to Thinh Trong Nguyen;
2. Revoking or suspending any other licensed issued under the Motor Vehicle Inspection Program in the name of Thinh Trong Nguyen; and
3. Taking such other and further action as deemed necessary and proper.

DATED: November 20, 2015



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

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