

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

In the Matter of the Accusation Against:

**TAMARA DEANNE DOYLE-MEMBER;  
DOYLE AUTOMOTIVE LLC,  
DOING BUSINESS AS DAN'S SMOG  
CHECK STATION**  
4555 University Ave.  
San Diego, CA 92105

Automotive Repair Dealer Registration  
ARD 270606  
Smog Check, Test Only, Station  
License No. TC 270606

**MAZDA MEHRAZ**  
4546 Lisann St.  
San Diego, CA 92117  
Smog Check Inspector License No. EO  
637139

and

**MAN CAO NGUYEN**  
1644 Towell Lane  
Escondido, CA 92029

Smog Check Inspector License No.  
EO 632531  
Smog Check Repair Technician  
License No. EI 632531 (formerly  
Advanced Emission Specialist  
Technician License No. EA 632531)

Respondents.

Case No. 79/15-132

OAH No. 2015070404

**DECISION**

The attached Stipulated Settlement and Disciplinary Order Re: Man Cao Nguyen's License No. 632531 is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent Man Cao Nguyen, Smog Check Inspector License No. EO 632531, and

Smog Check Repair Technician License No. EI 632531 (formerly Advanced Emission Specialist Technician License No. EA 632531).

This Decision shall become effective April 26, 2016.

DATED: April 1, 2016

  
\_\_\_\_\_  
TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
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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:  
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22 **San Diego, CA 92117**  
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**637139**

23 **and**

24 **MAN CAO NGUYEN**  
25 **1644 Towell Lane**  
26 **Escondido, CA 92029**

27 **Smog Check Inspector License No. EO**  
**632531**  
28 **Smog Check Repair Technician License No.**

Case No. 79/15-132

OAH No. 2015070404

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER RE: MAN CAO**  
**NGUYEN'S LICENSE NO. 632531**

1 **EI 632531 (formerly Advanced Emission**  
2 **Specialist Technician License No. EA**  
3 **632531)**

Respondents.

4 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
5 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of  
6 Automotive Repair the parties hereby agree to the following Stipulated Settlement and  
7 Disciplinary Order which will be submitted to the Director for the Director's approval and  
8 adoption as the final disposition of the Accusation solely with respect to Man Cao Nguyen. It  
9 does not apply to Tamara Deanne Doyle or Mazda Mehrnaz.

10 PARTIES

11 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He  
12 brought this action solely in his official capacity and is represented in this matter by Kamala D.  
13 Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney  
14 General.

15 2. Respondent Man Cao Nguyen (Respondent) is representing himself in this proceeding  
16 and has chosen not to exercise his right to be represented by counsel.

17 3. On or about September 27, 2010, the Bureau issued Advanced Emission Specialist  
18 (EA) Technician License No. 632531 to Respondent, which was due to expire on June 30, 2014.  
19 Under California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was  
20 renewed, under Nguyen's election, as Smog Check Inspector License No. EO 632531 and Smog  
21 Check Repair Technician License No. EI 632531, effective September 19, 2014. The Smog  
22 Check Inspector License and Smog Check Repair Technician License (collectively technician  
23 licenses) were in full force and effect at all times relevant to the charges brought herein and will  
24 expire on June 30, 2016, unless renewed.

25 JURISDICTION

26 4. Accusation No. 79/15-132 was filed before the Director of Consumer Affairs  
27 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against  
28

1 Respondent. The Accusation and all other statutorily required documents were properly served  
2 on Respondent on June 12, 2015. Respondent timely filed a Notice of Defense contesting the  
3 Accusation.

4 5. A copy of Accusation No. 79/15-132 is attached as exhibit A and incorporated herein  
5 by reference.

#### 6 ADVISEMENT AND WAIVERS

7 6. Respondent has carefully read, and understands the charges and allegations in  
8 Accusation No. 79/15-132. Respondent has also carefully read, and understands the effects of  
9 this Stipulated Settlement and Disciplinary Order.

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

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

#### 19 CULPABILITY

20 9. Respondent admits the truth of each and every charge and allegation in Accusation  
21 No. 79/15-132.

22 10. Respondent agrees that his Smog Check Inspector License and Smog Check Repair  
23 Technician License are subject to discipline and he agrees to be bound by the Director's  
24 probationary terms as set forth in the Disciplinary Order below.

#### 25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
27 the Director's designee. Respondent understands and agrees that counsel for Complainant and the  
28 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of

1 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
2 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
3 that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the  
4 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision  
5 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except  
6 for this paragraph, it shall be inadmissible in any legal action between the parties, and the  
7 Director shall not be disqualified from further action by having considered this matter.

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

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

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

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 632531 and Smog  
22 Check Repair Technician License No. EI 632531 issued to Respondent Man Cao Nguyen  
23 (Respondent) are both revoked. However, the revocation as to each is stayed and Respondent's  
24 licenses are placed on probation for two (2) years on the following terms and conditions:

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

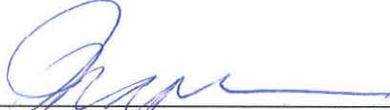
27 2. **Reporting.** Respondent or Respondent's authorized representative must report in  
28 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the



1 Repair Technician License. I enter into this Stipulated Settlement and Disciplinary Order  
2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
3 Director of Consumer Affairs.

4  
5 DATED:

02/05/2016

  
MAN CAO NGUYEN  
Respondent

6  
7  
8 ENDORSEMENT

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

11 Dated:

2/5/16

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
ADRIAN R. CONTRERAS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 79/15-132**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
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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**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:  
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17 **Smog Check, Test Only, Station License No.**  
18 **TC 270606**  
19 **MAZDA MEHRAZ**  
20 **4546 Lisann St.**  
**San Diego, CA 92117**  
21 **Smog Check Inspector License No. EO**  
22 **637139**

Case No. *79/15-132*  
**ACCUSATION**  
*smog check*

1 MAN CAO NGUYEN  
2 1644 Towell Lane  
3 Escondido, CA 92029

4 Smog Check Inspector License No. EO  
5 632531  
6 Smog Check Repair Technician License No.  
7 EI 632531 (formerly Advanced Emission  
8 Specialist Technician License No. EA  
9 632531)

Respondents.

Complainant alleges:

### PARTIES

- 10 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as  
11 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
- 12 2. On or about October 19, 2012, the Bureau issued Automotive Repair Dealer  
13 Registration No. ARD 270606 to Respondent Tamara Deanne Doyle, Member; Doyle Automotive  
14 LLC, doing business as Dan's Smog Check Station (collectively Dan's Smog Check Station). The  
15 registration was in full force and effect at all times relevant to the charges brought herein and will  
16 expire on October 31, 2015, unless renewed.
- 17 3. On or about January 9, 2013, the Bureau issued Smog Check Test Only Station  
18 License No. TC 270606 to Dan's Smog Check Station. The license was in full force and effect at  
19 all times relevant to the charges brought herein and will expire on October 31, 2015, unless  
20 renewed.
- 21 4. On or about July 24, 2014, the Bureau issued Smog Check Inspector License No. EO  
22 637139 to Respondent Mazda Mehrnaz (Mehraz). The Smog Check Inspector License was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
24 2016, unless renewed.
- 25 5. On or about September 27, 2010, the Bureau issued Advanced Emission Specialist  
26 (EA) Technician License No. 632531 to Respondent Man Cao Nguyen (Nguyen), which was due  
27 to expire on June 30, 2014. Under California Code of Regulations, title 16, section 3340.28,  
28 subdivision (e), the license was renewed, under Nguyen's election, as Smog Check Inspector

1 License No. EO 632531 and Smog Check Repair Technician License No. EI 632531, effective  
2 September 19, 2014. The Smog Check Inspector License and Smog Check Repair Technician  
3 License (collectively technician licenses) were in full force and effect at all times relevant to the  
4 charges brought herein and will expire on June 30, 2016, unless renewed.

#### 5 JURISDICTION

6 6. 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 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
9 surrender, cancellation of a license shall not deprive the Director of jurisdiction to proceed with a  
10 disciplinary action during the period within which the license may be renewed, restored, reissued  
11 or reinstated.

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

16 9. Section 9884.20 of the Code states:

17 "All accusations against automotive repair dealers shall be filed within three years after the  
18 performance of the act or omission alleged as the ground for disciplinary action, except that with  
19 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the  
20 accusation may be filed within two years after the discovery, by the bureau, of the alleged facts  
21 constituting the fraud or misrepresentation."

22 10. Section 9884.22 of the Code states:

23 "(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny  
24 at any time any registration required by this article on any of the grounds for disciplinary action  
25 provided in this article. The proceedings under this article shall be conducted in accordance with  
26 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
27 Code, and the director shall have all the powers granted therein.

28 "...."

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

4           12. Section 44072 of the Health and Safety Code states:

5           "Any license issued under this chapter and the regulations adopted pursuant to it may be  
6 suspended or revoked by the director. The director may refuse to issue a license to any applicant  
7 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted  
8 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2  
9 of the Government Code, and the director shall have all the powers granted therein."

10          13. Section 44072.4 of the Health and Safety Code states:

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

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

14           "(b) Suspending the license.

15           "(c) Revoking the license."

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

20          15. Section 44072.7 of the Health and Safety Code states:

21          "All accusations against licensees shall be filed within three years after the act or omission  
22 alleged as the ground for disciplinary action, except that with respect to an accusation alleging a  
23 violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after  
24 the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation  
25 prohibited by that section."

26          ///

27          ///

28          ///

1 16. Section 44072.8 of the Health and Safety Code states:

2 "When a license has been revoked or suspended following a hearing under this article, any  
3 additional license issued under this chapter in the name of the licensee may be likewise revoked or  
4 suspended by the director."

5 **STATUTORY PROVISIONS**

6 17. Section 22 of the Code states:

7 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the  
8 administration of the provision is vested, and unless otherwise expressly provided, shall include  
9 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and  
10 'agency.'

11 "(b) Whenever the regulatory program of a board that is subject to review by the Joint  
12 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2  
13 (commencing with Section 473), is taken over by the department, that program shall be designated  
14 as a 'bureau.'"

15 18. Section 23.7 of the Code states:

16 "Unless otherwise expressly provided, 'license' means license, certificate, registration, or  
17 other means to engage in a business or profession regulated by this code or referred to in Section  
18 1000 or 3600."

19 19. Section 9884.7 of the Code states:

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

25 "(1) Making or authorizing in any manner or by any means whatever any statement written  
26 or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable  
27 care should be known, to be untrue or misleading.

28 ". . . .

1           “(4) Any other conduct that constitutes fraud.

2           “...

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

7           20. Section 44012 of the Health and Safety Code states:

8           “The test at the smog check stations shall be performed in accordance with procedures  
9 prescribed by the department and may require loaded mode dynamometer testing in enhanced  
10 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other  
11 appropriate test procedures as determined by the department in consultation with the state board.  
12 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode  
13 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning  
14 no earlier than January 1, 2013. However, the department, in consultation with the state board,  
15 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed  
16 idle testing for vehicles with onboard diagnostic systems that the department and the state board  
17 determine exhibit operational problems. The department shall ensure, as appropriate to the test  
18 method, the following:

19           “(a) Emission control systems required by state and federal law are reducing excess  
20 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of Section  
21 44013.

22           “(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of  
23 the vehicle's emission control system.

24           “(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of hydrocarbons,  
25 carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded mode are  
26 tested in accordance with procedures prescribed by the department. In determining how loaded  
27 mode and evaporative emissions testing shall be conducted, the department shall ensure that the  
28 emission reduction targets for the enhanced program are met.

1           (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and  
2 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic  
3 compound emissions, in accordance with procedures prescribed by the department.

4           “(e) For diesel-powered vehicles, a visual inspection is made of emission control devices and  
5 the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the  
6 department, that may include, but are not limited to, onboard diagnostic testing. The test may  
7 include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon the  
8 adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

9           “(f) A visual or functional check is made of emission control devices specified by the  
10 department, including the catalytic converter in those instances in which the department determines  
11 it to be necessary to meet the findings of Section 44001. The visual or functional check shall be  
12 performed in accordance with procedures prescribed by the department.

13           “(g) A determination as to whether the motor vehicle complies with the emission standards  
14 for that vehicle's class and model-year as prescribed by the department.

15           “(h) An analysis of pass and fail rates of vehicles subject to an onboard diagnostic test and a  
16 tailpipe test to assess whether any vehicles passing their onboard diagnostic test have, or would  
17 have, failed a tailpipe test, and whether any vehicles failing their onboard diagnostic test have or  
18 would have passed a tailpipe test.

19           “(i) The test procedures may authorize smog check stations to refuse the testing of a vehicle  
20 that would be unsafe to test, or that cannot physically be inspected, as specified by the department  
21 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the vehicle  
22 from compliance with all applicable requirements of this chapter.”

23           21. Section 44015 of the Health and Safety Code states:

24           “(a) A licensed smog check station shall not issue a certificate of compliance, except as  
25 authorized by this chapter, to any vehicle that meets the following criteria:

26           “(1) A vehicle that has been tampered with.

27           “(2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision (b) of  
28 Section 44036. A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision

1 (b) of Section 44036 shall be directed to the department to determine whether an inadvertent error  
2 can explain the irregularity, or whether the vehicle otherwise meets smog check requirements,  
3 allowing the certificate for compliance to be issued, or the vehicle shall be reinspected by a referee  
4 or another smog check station.

5 “(3) A vehicle that, prior to repairs, has been initially identified by the smog check station as  
6 a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-  
7 only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections  
8 44014 and 44014.2.

9 “(4) A vehicle described in subdivision (c).

10 “(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to  
11 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

12 “(c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity  
13 authorized to perform referee functions for a vehicle that has been properly tested but does not  
14 meet the applicable emission standards when it is determined that no adjustment or repair can be

15 made that will reduce emissions from the inspected motor vehicle without exceeding the applicable  
16 repair cost limit established under Section 44017 and that every defect specified by paragraph (2)  
17 of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section  
18 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be  
19 accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3  
20 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver  
21 shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost  
22 limit specified in Section 44017.

23 “(2) An economic hardship extension shall be issued, upon request of a qualified low-income  
24 motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that  
25 has been properly tested but does not meet the applicable emission standards when it is determined  
26 that no adjustment or repair can be made that will reduce emissions from the inspected motor  
27 vehicle without exceeding the applicable repair cost limit, as established pursuant to Section  
28 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in

1 paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the low-  
2 income vehicle owner would suffer an economic hardship if the extension is not issued, and that all  
3 appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section  
4 44017.1 have been performed.

5 “(d) No repair cost waiver or economic hardship extension shall be issued under any of the  
6 following circumstances:

7 “(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the  
8 previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension  
9 may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that  
10 owner. However, a repair cost waiver or economic hardship extension may be issued for a motor  
11 vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as  
12 determined by the department. For waivers or extensions issued in the program operative on or  
13 after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per  
14 owner.

15 “(2) Upon initial registration of all of the following:

16 “(A) A direct import motor vehicle.

17 “(B) A motor vehicle previously registered outside this state.

18 “(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

19 “(D) A motor vehicle that has had an engine change.

20 “(E) An alternate fuel vehicle.

21 “(F) A specially constructed vehicle.

22 “(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall  
23 be valid for 90 days.

24 “(f) Excluding any vehicle whose transfer of ownership and registration is described in  
25 subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in  
26 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle  
27 dealer shall be responsible for having a smog check inspection performed on, and a certificate of  
28 compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate

1 issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle is  
2 sold and registered to a retail buyer, whichever occurs first.

3 "(g) A test may be made at any time within 90 days prior to the date otherwise required."

4 22. Section 44035 of the Health and Safety Code states:

5 "(a) A smog check station's license or a qualified smog check technician's qualification may  
6 be suspended or revoked by the department, after a hearing, for failure to meet or maintain the  
7 standards prescribed for qualification, equipment, performance, or conduct. The department shall  
8 adopt rules and regulations governing the suspension, revocation, and reinstatement of licenses  
9 and qualifications and the conduct of the hearings.

10 "(b) The department or its representatives, including quality assurance inspectors, shall be  
11 provided access to licensed stations for the purpose of examining property, station equipment,  
12 repair orders, emissions equipment maintenance records, and any emission inspection items, as  
13 defined by the department."

14 23. Section 44072.2 of the Health and Safety Code states:

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

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

21 "...

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

23 "(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

24 "..."

25 24. Section 44072.10 of the Health and Safety Code states:

26 "...

27

28



1 tested. Nor shall any person knowingly enter into the emissions inspection system any false  
2 information about the vehicle being tested.

3 " . . . "

4 28. California Code of Regulations, title 16, section 3340.42 states:

5 "Smog check inspection methods are prescribed in the Smog Check Manual, referenced by  
6 section 3340.45.

7 "(a) All vehicles subject to a smog check inspection, shall receive one of the following test  
8 methods:

9 "(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year  
10 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-  
11 mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen  
12 emissions, as contained in the bureau's specifications referenced in subsection (a) of Section  
13 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test  
14 equipment, including a chassis dynamometer, certified by the bureau.

15 "On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection  
16 shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table  
17 (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby  
18 incorporated by reference. If the emissions standards for a specific vehicle are not included in this  
19 table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE  
20 I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured  
21 emissions are less than or equal to the applicable emission standards specified in the applicable  
22 table.

23 "(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-  
24 year vehicles, except diesel-powered, registered in all program areas of the state, except in those  
25 areas of the state where the enhanced program has been implemented. The two-speed idle mode  
26 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and  
27 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of  
28 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall be

1 measured and compared to the emission standards set forth in this section and as shown in TABLE  
2 III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less than or  
3 equal to the applicable emissions standards specified in Table III.

4 “(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered  
5 vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer.  
6 The OBD test failure criteria are specified in section 3340.42.2.

7 “(b) In addition to subsection (a), all vehicles subject to the smog check program shall  
8 receive the following:

9 “(1) A visual inspection of emission control components and systems to verify the vehicle's  
10 emission control systems are properly installed.

11 “(2) A functional inspection of emission control systems as specified in the Smog Check  
12 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper  
13 operation.

14 “. . . .”

15 29. California Code of Regulations, title 16, section 3395.4 states:

16 “In reaching a decision on a disciplinary action under the Administrative Procedure Act  
17 (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of  
18 Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary guidelines  
19 entitled ‘Guidelines for Disciplinary Penalties and Terms of Probation’ [May, 1997] which are  
20 hereby incorporated by reference. The ‘Guidelines for Disciplinary Penalties and Terms of  
21 Probation’ are advisory. Deviation from these guidelines and orders, including the standard terms  
22 of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion  
23 determines that the facts of the particular case warrant such deviation -for example: the presence  
24 of mitigating factors; the age of the case; evidentiary problems.”

25 **COSTS**

26 30. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the  
27 administrative law judge to direct a licentiate found to have committed a violation or violations of  
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
3 included in a stipulated settlement.

#### 4 **FACTS**

5 31. At all times alleged in this Accusation, Tamara Deanne Doyle, Mehraz, and Nguyen  
6 were acting in the course and within the scope of a technician, employee, partner, officer, or  
7 member of Dan's Smog Check Station.

#### 8 **FIRST UNDERCOVER RUN**

9 32. On August 26, 2014, a Bureau undercover operator drove a Bureau-documented 1988  
10 Toyota to Dan's Smog Check Station for inspection. The following introduced malfunction was  
11 placed on the vehicle: installation of a damaged fuel neck so that the vehicle would fail the  
12 functional check for the Low Pressure Fuel Evaporative Test. The undercover operator drove to  
13 the facility and requested a smog inspection. Dan's Smog Check Station and Mehraz performed  
14 the inspection. Certificate of Compliance [REDACTED] was issued for the inspection. After the  
15 inspection was completed, the undercover operator paid Dan's Smog Check Station for the  
16 inspection. Dan's Smog Check Station gave the undercover operator a Vehicle Inspection Report  
17 and an invoice. The undercover operator then left the facility and transferred custody of the  
18 vehicle to a Bureau representative.

19 33. A Bureau representative later reinspected the vehicle. The vehicle was still in the  
20 condition that would cause the vehicle to fail the functional check for the Low Pressure Fuel  
21 Evaporative Test. In light of this condition, a certificate of compliance should not have been  
22 issued for Dan's Smog Check Station's and Mehraz's inspection.

#### 23 **SECOND UNDERCOVER RUN**

24 34. On September 22, 2014, a Bureau undercover operator drove a Bureau-documented  
25 1990 Toyota to Dan's Smog Check Station for inspection. The following introduced malfunction  
26 was placed on the vehicle: a leak in the Fuel Evaporative system by installing a defective Fuel  
27 Evaporative Hose so that the vehicle would fail the functional check for the Low Pressure Fuel  
28 Evaporative Test. The undercover operator drove to the facility and requested a smog inspection.

1 Dan's Smog Check Station and Nguyen performed the inspection. Certificate of Compliance  
2 [REDACTED] was issued for the inspection. After the inspection was completed, the undercover  
3 operator paid Dan's Smog Check Station for the inspection. Dan's Smog Check Station gave the  
4 undercover operator a Vehicle Inspection Report and an invoice. The undercover operator then  
5 left the facility and transferred custody of the vehicle to a Bureau representative.

6 35. A Bureau representative later reinspected the vehicle. The vehicle was still in the  
7 condition that would cause the vehicle to fail the functional check for the Low Pressure Fuel  
8 Evaporative Test. In light of this condition, a certificate of compliance should not have been  
9 issued for Dan's Smog Check Station's and Nguyen's inspection.

### 10 **THIRD UNDERCOVER RUN**

11 36. On December 12, 2014, a Bureau undercover operator drove a Bureau-documented  
12 1992 Toyota to Dan's Smog Check Station for inspection. The following introduced malfunction  
13 was placed on the vehicle: installation of a fuel evaporative hose with a hole in it so that the vehicle  
14 would fail the functional check for the Low Pressure Fuel Evaporative Test. The undercover  
15 operator drove to the facility and requested a smog inspection. Dan's Smog Check Station and  
16 Nguyen performed the inspection. Certificate of Compliance [REDACTED] was issued for the  
17 inspection. After the inspection was completed, the undercover operator paid Dan's Smog Check  
18 Station \$53.00. Dan's Smog Check Station gave the undercover operator a Vehicle Inspection  
19 Report and an invoice. The undercover operator then left the facility and transferred custody of  
20 the vehicle to a Bureau representative.

21 37. A Bureau representative later reinspected the vehicle. The vehicle was still in the  
22 condition that would cause the vehicle to fail the functional check for the Low Pressure Fuel  
23 Evaporative Test. In light of this condition, a certificate of compliance should not have been  
24 issued for Dan's Smog Check Station's and Nguyen's inspection.

### 25 **FIRST CAUSE FOR DISCIPLINE**

#### 26 **(Untrue or Misleading Statements)**

27 38. Complainant re-alleges and incorporates by reference the allegations set forth above in  
28 paragraphs 31-37.



1 44. Dan's Smog Check Station's Smog Check Station License is subject to disciplinary  
2 action under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,  
3 subdivision (a), in that Dan's Smog Check Station failed to comply with the following sections of  
4 Title 16, California Code of Regulations:

5 a. Section 3340.35, subdivision (c): failed to inspect and test the vehicle(s) in  
6 paragraphs 31-42 in accordance with the procedures specified in section 3340.42 of the  
7 Regulations and failed to ensure that the vehicle(s) had all the required emission control equipment  
8 and devices installed and functioning correctly.

9 b. Section 3340.41, subdivision (c): knowingly entered into the Emissions Inspection  
10 System false information about the vehicle(s) in paragraphs 31-42, providing result(s) for smog  
11 inspection(s) which were not actually performed.

12 c. Section 3340.42: failed to conduct the required smog tests on the vehicle(s) in  
13 paragraphs 31-42 in accordance with the Bureau's specifications.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud, Deceit)**

16 45. Complainant re-alleges and incorporates by reference the allegations set forth above in  
17 paragraphs 31-44.

18 46. Dan's Smog Check Station's Registration is subject to disciplinary action under Code  
19 section 9884.7, subdivision (a)(4), and Dan's Smog Check Station's Smog Check Station License  
20 is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (a)  
21 and (c) and 44072.2, subdivision (d), in that Dan's Smog Check Station committed dishonest,  
22 fraudulent, or deceitful acts whereby another is injured by issuing a smog certificate of compliance  
23 for the vehicle(s) in paragraphs 31-44 without performing bona fide inspections of the emission  
24 control devices and systems on the vehicle(s), thereby depriving the People of the State of  
25 California of the protection afforded by the Motor Vehicle Inspection Program.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Motor Vehicle Inspection Program)**

3 47. Complainant re-alleges and incorporates by reference the allegations set forth above in  
4 paragraphs 31-46.

5 48. Mehraz's Smog Check Inspector License is subject to disciplinary action under Health  
6 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that  
7 Mehraz failed to comply with the following sections of that Code:

8 a. **Section 44012**: failed to perform the tests of the emission control systems and devices  
9 on the vehicle(s) in paragraphs 31-46 in accordance with procedures prescribed by the  
10 Department.

11 b. **Section 44015**: issued a certificate of compliance for the vehicle(s) in paragraphs 31-  
12 46 without properly testing and inspecting them to determine if they were in compliance with  
13 Health & Safety Code section 44012.

14 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,  
15 equipment, performance, or conduct by failing to properly perform a smog inspection on the  
16 vehicle(s) in paragraphs 31-46 or certifying that such test(s) had been performed, when in fact they  
17 were never performed.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

20 49. Complainant re-alleges and incorporates by reference the allegations set forth above in  
21 paragraphs 31-48.

22 50. Mehraz's Smog Check Inspector License is subject to disciplinary action under Health  
23 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a) in that  
24 Mehraz failed to comply with the following sections of Title 16, California Code of Regulations:

25 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicle(s) in  
26 paragraphs 31-48 in accordance with the procedures specified in section 3340.42 of the  
27 Regulations and failed to ensure that the vehicle(s) had all the required emission control equipment  
28 and devices installed and functioning correctly.







1           1.    Revoking or suspending Automotive Repair Dealer Registration No. ARD 270606  
2 issued to Respondent Tamara Deanne Doyle, Member; Doyle Automotive LLC, doing business as  
3 Dan's Smog Check Station;

4           2.    Revoking or suspending Smog Check Test Only Station License No. TC 270606  
5 issued to Respondent Tamara Deanne Doyle, Member; Doyle Automotive LLC, doing business as  
6 Dan's Smog Check Station;

7           3.    Revoking or suspending Smog Check Inspector License No. EO 637139 issued to  
8 Mazda Mehrnaz;

9           4.    Revoking or suspending Smog Check Inspector License No. EO 632531, and Smog  
10 Check Repair Technician License No. EI 632531 (formerly Advanced Emission Specialist (EA)  
11 Technician License No. 632531) issued to Man Cao Nguyen;

12           5.    Revoking or suspending the registration for all places of business operated in this state  
13 by Respondent Tamara Deanne Doyle, Member; Doyle Automotive LLC, doing business as Dan's  
14 Smog Check Station;

15           6.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
16 and Safety Code in the name of Respondent Tamara Deanne Doyle, Member; Doyle Automotive  
17 LLC, doing business as Dan's Smog Check Station;

18           7.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
19 and Safety Code in the name of Mazda Mehrnaz;

20           8.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
21 and Safety Code in the name of Man Cao Nguyen;

22           9.    Ordering Respondent Tamara Deanne Doyle, Member; Doyle Automotive LLC, doing  
23 business as Dan's Smog Check Station; Mazda Mehrnaz; and Man Cao Nguyen to pay the Bureau  
24 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
25 pursuant to Business and Professions Code section 125.3; and

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

DATED: June 12, 2015 Patrick Dorais

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

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