

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 CARTER OTT  
Deputy Attorney General  
4 State Bar No. 221660  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2219  
Facsimile: (510) 622-2270  
7 E-mail: Carter.Ott@doj.ca.gov  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

Case No. 79/116-156

13 **TO LAN NGUYEN – MEMBER, CO & HA,**  
14 **LLC, doing business as 480 STAR SMOG**  
**CHECK**  
15 **480 Keyes Street**  
**San Jose, CA 95112**

**ACCUSATION**

(SMOG CHECK)

16 **Automotive Repair Dealer Registration No.**  
**ARD 272985**  
17 **Smog Check Test Only Station License No.**  
**TC 272985;**

18 **DUNG Q. PHAM**  
19 **3523 Pitcairn Way**  
20 **San Jose, CA 95111**

21 **Smog Check Inspector License No. EO**  
**635284;**

22 **and**

23 **TUNG DUC NGUYEN**  
24 **2150 Monterey Hwy, #229**  
**San Jose, CA 95112**

25 **Smog Check Inspector License No. EO**  
26 **638328**

27 Respondents.

1 Complainant alleges:

2 PARTIES

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

5 2. On or about May 14, 2013, the Bureau of Automotive Repair (“Bureau”) issued  
6 Automotive Repair Dealer Registration Number ARD 272985 to To Lan Nguyen – Member, CO  
7 & HA, LLC, doing business as 480 Star Smog Check (“Respondent 480 Star Smog Check”). The  
8 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the  
9 charges brought in this Accusation and will expire on May 31, 2017, unless renewed.

10 3. On or about May 22, 2013, the Bureau issued Smog Check Test Only Station License  
11 Number TC 272985 to Respondent 480 Star Smog Check. The Smog Check Test Only Station  
12 License was in full force and effect at all times relevant to the charges brought in this Accusation  
13 and will expire on May 31, 2017, unless renewed.

14 4. On or about March 8, 2013, the Bureau issued Smog Check Inspector License  
15 Number EO 635284 to Dung Q. Pham (“Respondent Pham”). The Smog Check Inspector  
16 License was in full force and effect at all times relevant to the charges brought in this Accusation  
17 and will expire on October 31, 2018, unless renewed.

18 5. On or about July 10, 2015, the Bureau issued Smog Check Inspector License Number  
19 EO 638328 to Respondent Tung Duc Nguyen (“Respondent Nguyen”). The Smog Check  
20 Inspector License was in full force and effect at all times relevant to the charges brought in this  
21 Accusation and will expire on October 31, 2017, unless renewed.

22 JURISDICTION

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

26 7. **Section 118, subdivision (b)** states:

27 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
28 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by

1 order of a court of law, or its surrender without the written consent of the board, shall not, during  
2 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
3 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
4 provided by law or to enter an order suspending or revoking the license or otherwise taking  
5 disciplinary action against the licensee on any such ground.”

6 8. **Section 9889.1** states:

7 “Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the  
8 director. The director may refuse to issue a license to any applicant for the reasons set forth in  
9 Section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter  
10 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code,  
11 and the director shall have all the powers granted therein.”

12 9. **Section 9889.5** states:

13 “The director may take disciplinary action against any licensee after a hearing as provided  
14 in this article by any of the following:

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

16 “(b) Suspending the license.

17 “(c) Revoking the license.”

18 10. **Health and Safety Code section 44072** states:

19 “Any license issued under this chapter and the regulations adopted pursuant to it may be  
20 suspended or revoked by the director. The director may refuse to issue a license to any applicant  
21 for the reasons set forth in Section 44072.1. The proceedings under this article shall be  
22 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division  
23 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.”

24 ////

25 ////

26 ////

27 ////

28 ////



1           13.   **Section 9884.8** states:

2           “All work done by an automotive repair dealer, including all warranty work, shall be  
3 recorded on an invoice and shall describe all service work done and parts supplied. Service work  
4 and parts shall be listed separately on the invoice, which shall also state separately the subtotal  
5 prices for service work and for parts, not including sales tax, and shall state separately the sales  
6 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice  
7 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt  
8 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a  
9 statement indicating whether any crash parts are original equipment manufacturer crash parts or  
10 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be  
11 given to the customer and one copy shall be retained by the automotive repair dealer.”

12           14.   **Section 9889.3** states:

13           “The director may suspend, revoke, or take other disciplinary action against a license as  
14 provided in this article if the licensee or any partner, officer, or director thereof:

15           “(a) Violates any section of the Business and Professions Code that relates to his or her  
16 licensed activities.

17           ...

18           “(c) Violates any of the regulations promulgated by the director pursuant to this chapter.

19           ....”

20           15.   **Health and Safety Code section 44012** states:

21           “The test at the smog check stations shall be performed in accordance with procedures  
22 prescribed by the department and may require loaded mode dynamometer testing in enhanced  
23 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other  
24 appropriate test procedures as determined by the department in consultation with the state board.  
25 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode  
26 dynamometer or two-speed idle testing , on model year 2000 and newer vehicles only, beginning  
27 no earlier than January 1, 2013. However, the department, in consultation with the state board,  
28 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed

1 idle testing for vehicles with onboard diagnostic systems that the department and the state board  
2 determine exhibit operational problems. The department shall ensure, as appropriate to the test  
3 method, the following:

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

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

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

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

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

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

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

28

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

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

9           **16. Health and Safety Code section 44015** states, in part:

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

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

13           ...

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

16           ....”

17           **17. Health and Safety Code section 44032** states:

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

23           **18. Health and Safety Code section 44059** states:

24           “‘The willful making of any false statement or entry with regard to a material matter in any  
25 oath, affidavit, certificate of compliance or noncompliance, or application form which is required  
26 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business  
27 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

28           /////

1           19.   **Health and Safety Code section 44072.2** states, in part:

2           “The director may suspend, revoke, or take other disciplinary action against a license as  
3 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the  
4 following:

5           “(a) Violates any section of this chapter and the regulations adopted pursuant to it, which  
6 related to the licensed activities.

7           . . . .”

8           20.   **Health and Safety Code section 44072.8** states:

9           “When a license has been revoked or suspended following a hearing under this article, any  
10 additional license issued under this chapter in the name of the licensee may be likewise revoked  
11 or suspended by the director.”

12          21.   **California Code of Regulations, title 16, section 3340.30, subdivision (a)** states:

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

15          “(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the  
16 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this  
17 article.”

18          22.   **California Code of Regulations, title 16, section 3340.35, subdivision (c)** states:

19          “(c) A licensed station shall issue a certificate of compliance or noncompliance to the  
20 owner or operator of any vehicle that has been inspected in accordance with the procedures  
21 specified in section 3340.42 of this article and has all the required emission control equipment  
22 and devices installed and functioning correctly. The following conditions shall apply:

23          “(1) Customers shall be charged the same price for certificates as that paid by the licensed  
24 station; and

25          “(2) Sales tax shall not be assessed on the price of certificates.”

26          23.   **California Code of Regulations, title 16, section 3340.42** states:

27          “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by  
28 section 3340.45.

1           “(a) All vehicles subject to a smog check inspection, shall receive one of the following test  
2 methods:

3           “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year  
4 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-  
5 mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen  
6 emissions, as contained in the bureau's specifications referenced in subsection (a) of Section  
7 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test  
8 equipment, including a chassis dynamometer, certified by the bureau.

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

17           “(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-  
18 year vehicles, except diesel-powered, registered in all program areas of the state, except in those  
19 areas of the state where the enhanced program has been implemented. The two-speed idle mode  
20 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and  
21 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of  
22 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall  
23 be measured and compared to the emission standards set forth in this section and as shown in  
24 TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less  
25 than or equal to the applicable emissions standards specified in Table III.

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

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

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

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

8           “(c) The bureau may require any combination of the inspection methods in sections (a) and  
9 (b) under any of the following circumstances:

10           “(1) Vehicles that the department randomly selects pursuant to Health and Safety Code  
11 section 44014.7 as a means of identifying potential operational problems with vehicle OBD  
12 systems.

13           “(2) Vehicles identified by the bureau as being operationally or physically incompatible  
14 with inspection equipment.

15           “(3) Vehicles with OBD systems that have demonstrated operational problems.

16           “(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are  
17 as follows:

18           “(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides  
19 of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables  
20 described in subsection (a), as applicable.

21           “(2) Vehicles with emission levels exceeding the emission standards for gross polluters  
22 during an initial inspection will be considered gross polluters and the provisions pertaining to  
23 gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and  
24 44081 of the Health and Safety Code.

25           “(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until  
26 the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle  
27 included in the tables described in subsection (a), as applicable. However, the provisions  
28 described in section 44017 of the Health and Safety Code may apply.



1 FACTUAL BACKGROUND

2 26. On January 15, 2015, the Bureau initiated an investigation regarding Respondent 480  
3 Star Smog Check based on a review of vehicle information database data which indicated a  
4 pattern of fraudulent Smog check inspections.

5 27. Between January 28 and November 12, 2015, five Bureau-documented vehicles with  
6 introduced malfunctions were inspected at Respondent 480 Star Smog Check's facility. Four of  
7 these vehicles had their emission systems certified and were issued Certificates of Compliance,  
8 signed under penalty of perjury, by Respondents Pham and Nguyen. Respondents Pham and  
9 Nguyen, each, certified two of the four vehicles. Respondents Pham and Nguyen also issued  
10 invoices indicating that they had completed Smog checks for the vehicles, when required Smog-  
11 related checks, tests, and inspections had not been performed.

12 28. The four vehicles that Respondents Pham and Nguyen certified had introduced  
13 malfunctions that should have caused the vehicles to fail the Smog Check inspections. The  
14 failure by Respondents Pham and Nguyen to properly inspect these vehicles resulted in the  
15 issuance of four fraudulent Certificates of Compliance for Respondent 480 Star Smog Check.

16 FIRST CAUSE FOR DISCIPLINE  
17 (False and Misleading Statements)  
18 (Bus. & Prof. Code § 9884.7, subd. (a)(1))  
19 (Respondent 480 Star Smog Check)

20 29. Respondent 480 Star Smog Check has subjected its Automotive Repair Dealer  
21 Registration to disciplinary action for making or authorizing statements, written and/or oral,  
22 which were untrue or misleading, and which were known, or which by the exercise of reasonable  
23 care should have been known, to be untrue or misleading. (Bus. & Prof. Code § 9884.7, subd.  
24 (a)(1)). The circumstances are set forth in paragraphs 26 through 28, above.  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SECOND CAUSE FOR DISCIPLINE

(Fraud)

(Bus. & Prof. Code § 9884.7, subd. (a)(4))

(Respondent 480 Star Smog Check)

30. Respondent 480 Star Smog Check has subjected its Automotive Repair Dealer Registration to disciplinary action for conduct that constitutes fraud. (Bus. & Prof. Code § 9884.7, subd. (a)(4)). The circumstances are set forth in paragraphs 26 through 28, above.

THIRD CAUSE FOR DISCIPLINE

(Perjury)

(Health & Safety Code §§ 44059 and 44072.2, subd. (a))

(Respondents 480 Star Smog Check, Pham, and Nguyen)

31. Respondent 480 Star Smog Check has subjected its Automotive Repair Dealer Registration and Smog Check Test Only Station License to disciplinary action for conduct that constitutes perjury, as provided in Health and Safety Code section 44059. (Health & Safety Code §§ 44059 and 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Follow Required Test Procedures)

(Health & Safety Code §§ 44012 and 44072.2, subd. (a))

(Respondents Pham and Nguyen)

32. Respondents Pham and Nguyen have subjected their Smog Check Inspector Licenses to disciplinary action for failing to follow test procedures, as required by Health and Safety Code section 44012. (Health & Safety Code §§ 44012 and 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Conduct Visual or Functional Checks of Emission Control Devices)

(Health & Safety Code §§ 44012, subd. (f) and 44072.2, subd. (a))

(Respondents 480 Star Smog Check, Pham, and Nguyen)

33. Respondents 480 Star Smog Check, Pham, and Nguyen have subjected their Smog Check Test Only Station License and Smog Check Inspector Licenses to disciplinary action for failing to conduct visual or functional checks of emission control devices, as required by Health

1 and Safety Code section 44012, subdivision (f). (Health & Safety Code §§ 44012, subd. (f) and  
2 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

3  
4 SIXTH CAUSE FOR DISCIPLINE

5 (Failure to Conduct Smog Check Inspection Tests)  
6 (Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, § 3340.42)  
7 (Respondent 480 Star Smog Check)

8 34. Respondents 480 Star Smog Check has subjected its Automotive Repair Dealer  
9 Registration and Smog Check Test Only Station License to disciplinary action for failing to  
10 conduct smog check inspection tests as required by California Code of Regulations, title 16,  
11 section 3340.42. (Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, §  
12 3340.42). The circumstances are set forth in paragraphs 26 through 28, above.

13 SEVENTH CAUSE FOR DISCIPLINE

14 (Failure to Comply with Health and Safety Code Section 44012)  
15 (Health & Safety Code §§ 44032 and 44072.2, subd. (a))  
16 (Respondents Pham and Nguyen)

17 35. Respondents Pham and Nguyen have subjected their Smog Check Inspector Licenses  
18 to disciplinary action for failing perform tests of emission control devices and systems in  
19 accordance with Health and Safety Code section 44012. (Health & Safety Code §§ 44032 and  
20 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

21 EIGHTH CAUSE FOR DISCIPLINE

22 (Failure to Perform Visual Inspection of Emission Control Components and Systems)  
23 (Bus. & Prof. Code § 9889.3, subd. (c) and  
24 Cal. Code Regs., title 16, § 3340.42, subd. (b)(1))  
25 (Respondents Pham and Nguyen)

26 36. Respondents Pham and Nguyen have subjected their Smog Check Inspector Licenses  
27 to disciplinary action for failing to perform visual inspections of emission control components  
28 and systems as required by California Code of Regulations, title 16, section 3340.42, subdivision  
(b)(1). (Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, § 3340.42, subd.  
(b)(1)). The circumstances are set forth in paragraphs 26 through 28, above.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NINTH CAUSE FOR DISCIPLINE

(Failure to Perform Visual Inspection of Emission Control Components and Systems)  
(Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, § 3340.30, subd. (a))  
(Respondents Pham and Nguyen)

37. Respondents Pham and Nguyen have subjected their Smog Check Inspector Licenses to disciplinary action for failing to inspect, test and repair vehicles, as applicable, in accordance with Health and Safety Code section 44012 and California Code of Regulations, title 16, section 3340.42. (Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, § 3340.30, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

TENTH CAUSE FOR DISCIPLINE

(Issuing Certificate of Compliance for Vehicles Not in Compliance with  
Health and Safety Code Section 44012)  
(Health & Safety Code §§ 44015, subd. (b) and 44072.2, subd. (a))  
(Respondent 480 Star Smog Check)

38. Respondents 480 Star Smog Check has subjected its Smog Check Test Only Station License to disciplinary action for issuing certificates of compliance for vehicles that did not meet the requirements of Health and Safety Code section 44012. (Health & Safety Code §§ 44015, subd. (b) and 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

ELEVENTH CAUSE FOR DISCIPLINE

(Issuing Certificate of Compliance with Vehicles Subject to Tampering)  
(Health & Safety Code §§ 44015, subd. (a)(1) and 44072.2, subd. (a))  
(Respondent 480 Star Smog Check)

39. Respondents 480 Star Smog Check has subjected its Smog Check Test Only Station License to disciplinary action for issuing certificates of compliance for vehicles that have been tampered with. (Health & Safety Code §§ 44015, subd. (a)(1) and 44072.2, subd. (a)). The circumstances are set forth in paragraphs 26 through 28, above.

TWELFTH CAUSE FOR DISCIPLINE

(Issuing Certificate of Compliance for Vehicles Not in Compliance with  
Code of Regulations, Title 16, section 3340.42)  
(Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code Regs., title 16, § 3340.35, subd. (c))  
(Respondent 480 Star Smog Check)

40. Respondents 480 Star Smog Check has subjected its Automotive Repair Dealer Registration and Smog Check Test Only Station License to disciplinary action for issuing

1 certificates of compliance for vehicles that were not inspected in accordance with California Code  
2 of Regulations, title 16, section 3340.42. (Bus. & Prof. Code § 9889.3, subd. (c) and Cal. Code  
3 Regs., title 16, § 3340.35, subd. (c)). The circumstances are set forth in paragraphs 26 and 28,  
4 above.

5 THIRTEENTH CAUSE FOR DISCIPLINE  
6 (Failure to Record all Service Work in Invoice)  
7 (Bus. & Prof. Code §§ 9884.8 and 9889.3, subds. (a) and (b); and  
8 Cal. Code Regs., title 16, § 3356, subd. (a))  
9 (Respondent 480 Star Smog Check)

10 41. Respondent 480 Star Smog Check has subjected its Automotive Repair Dealer  
11 Registration to disciplinary action for failing to itemize, in invoices, the cost of the certificates of  
12 compliance Respondent issued for the four vehicles referenced in paragraphs 26 through 28,  
13 above. (Bus. & Prof. Code §§ 9889.3, subds. (a) and (b), and § 9884.8; and Cal. Code Regs., title  
14 16, § 3356, subd. (a)).

15 FOURTEENTH CAUSE FOR DISCIPLINE  
16 (Failure to Comply with Automotive Repair Act and Regulations)  
17 (Bus. & Prof. Code § 9884.7, subd. (a)(6))  
18 (Respondent 480 Star Smog Check)

19 42. Respondent 480 Star Smog Check has subjected its Automotive Repair Dealer  
20 Registration to disciplinary action for failing in a material respect to comply with the Automotive  
21 Repair Act or regulations adopted pursuant to the Automotive Repair Act. (Bus. & Prof. Code §  
22 9884.7, subd. (a)(6)). The circumstances are set forth in paragraphs 26 through 41, above.

23 OTHER MATTERS

24 43. Pursuant to Section 9884.7, subdivision (c), the Director may suspend, revoke, or  
25 place on probation the registrations for all places of business operated in this state by To Lan  
26 Nguyen, upon a finding that he has, or is, engaged in a course of repeated and willful violations  
27 of the laws and regulations pertaining to an automotive repair dealer.

28 44. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
Station License Number TC 272985, issued to Respondent 480 Star Smog Check, is revoked or  
suspended, any additional license issued under this Chapter in the name of said licensee may  
likewise be revoked or suspended by the Director.



1           4.     Ordering Respondents 480 Star Smog Check, Pham, and Nguyen to pay the Bureau  
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3; and

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

5  
6 DATED: 8/12/16

7 PAT DORAIS by Doug Balatti  
8 PATRICK DORAIS  
9 Chief  
10 Bureau of Automotive Repair  
11 Department of Consumer Affairs  
12 State of California  
13 *Complainant*