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

In the Matter of the Accusation Against**:**	Case No. 77/19-3411
QUI AUTO REPAIR INC. **3755 Foothill Blvd.** **Oakland, CA 94601** **KENNY PHUOC NGUYEN Pres./Sec./Treasurer** **Automotive Repair Dealer Reg. No.: ARD 284781** **Brake Station License No.: BS 284781, Class C** **Lamp Station License No.: LS 284781, Class A** **Smog Check Station License No.: RC 284781** **And** **KENNY PHUOC NGUYEN** **2052 E. 19th St. Unit B** **Oakland, CA 94606** **Mailing address:** **1825 14th Ave.** **Oakland, CA 94606** **Brake Adjuster License No.: BA 135340, Class C** **Lamp Adjuster License No.: LA 135340, Class A** **Smog Check Inspector License No.: EO 135340** **Smog Check Repair Technician License No.: EI 135340** Respondents.	**ACCUSATION**

PARTIES

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

Automotive Repair Dealer Registration

2. On or about September 6, 2016, the Bureau issued Automotive Repair Dealer Registration Number ARD 284781 (ARD Registration) to Qui Auto Repair, Inc. (Respondent Qui Auto Repair). The ARD Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

Smog Check Station License

3. On or about October 4, 2016, the Bureau issued Smog Check Station License Number RC 284781 to Respondent Qui Auto Repair. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

Lamp Station License

4. On or about October 4, 2016, the Bureau issued Lamp Station License Number LS 284781, Class A, to Respondent Qui Auto Repair. The Lamp Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

Brake Station License

5. On or about October 4, 2016, the Bureau issued Brake Station License Number BS 284781, Class C, to Respondent Qui Auto Repair. The Brake Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

Smog Check Inspector License

6. In or about 2003, the Bureau issued Advanced Emission Specialist Technician License Number EA 135340 to Kenny Phuoc Nguyen (Respondent Nguyen). The Advanced Emission Specialist Technician License was due to expire on July 31, 2013, but was cancelled on

July 15, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent Nguyen's election, as Smog Check Inspector License EO 135340 and Smog Check Repair Technician License Number EI 135340 on July 15, 2013. Respondent Nguyen's Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2021, unless renewed. Respondent Nguyen's Smog Check Repair Technician License expired on July 31, 2019, and has not been renewed.[1]

Brake Adjuster License

7. In or about 1998, the Bureau issued Brake Adjuster License Number BA 135340, Class C, to Respondent Nguyen. The Brake Adjuster License expired on July 31, 2019, and has not been renewed.

Lamp Adjuster License

8. In or about 2001, the Bureau issued Lamp Adjuster License Number LA 135340, Class A, to Respondent Nguyen. The Lamp Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

JURISDICTION

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

10. Code section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

11. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

[1] Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

12. Code section 9889.1 provides, in pertinent part, that the Director may suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the Automotive Repair Act.

13. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a license by operation of law or by order or decision of the Director or a court of law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary proceedings.

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

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

STATUTORY PROVISIONS

16. Section 9884.7 of the Code states:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> …
>
> (3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.
>
> (4) Any other conduct which constitutes fraud.
>
> …
>
> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

…

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

17. Section 9884.9 of the Code states:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job, except as provided in subdivision (e). No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price, or the posted price specified in subdivision (e), without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated or posted price is insufficient and before the work not estimated or posted is done or the parts not estimated or posted are supplied. Written consent or authorization for an increase in the original estimated or posted price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

_____

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

…

18. Section 9889.3 of the Code states:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article [Article 7 (commencing with section 9889.1) of Chapter 20.3 of Division 3 of the Business and Professions Code] if the licensee or any partner, officer, or director thereof:

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

…

(c) Violates any of the regulations promulgated by the director pursuant to this chapter [the Automotive Repair Act].

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

…

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

…

19. Section 9889.16 of the Code states:

Whenever a licensed adjuster in a licensed station upon an inspection or after an adjustment, made in conformity with the instructions of the bureau, determines that the lamps or the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form prescribed by the director, which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official license of the station.

20. Section 44072.2 of the Health and Safety Code states:

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

…

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

…

REGULATORY PROVISIONS

21. California Code of Regulations, title 16, section 3305, states:

(a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems for the purpose of issuing any certificate of compliance or adjustment shall be performed in official stations, by official adjusters, in accordance with the following, in descending order of precedence, as applicable:

(1) Vehicle Manufacturers' current standards, specifications and recommended procedures, as published in the manufacturers' vehicle service and repair manuals.

(2) Current standards, specifications, procedures, directives, manuals, bulletins and instructions issued by vehicle and equipment or device manufacturers.

(3) Standards, specifications and recommended procedures found in current industry-standard reference manuals and periodicals published by nationally recognized repair information providers.

(4) The bureau's Handbook for Brake Adjusters and Stations, May 2015, which

is hereby incorporated by reference.

…

22. California Code of Regulations, title 16, section 3353, states:

> No work for compensation shall be commenced and no charges shall accrue without specific authorization from the customer in accordance with the following requirements:
>
> (a) Estimate for Parts and Labor. Every dealer shall give to each customer a written estimated price for labor and parts for a specific job.
>
> …

23. California Code of Regulations, title 16, section 3373, states:

> No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.

COST RECOVERY

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

FACTUAL SUMMARY

25. Owners of motor vehicles in the State of California may need to obtain a brake and/or lamp certificate to register a vehicle or to clear an enforcement document. These inspections are performed by Brake and Lamp Adjusters at Brake and Lamp Stations, all of which are licensed by the Bureau. The Brake and Lamp Inspection Programs are designed and intended to make the State's roads and highways safe for the people of the State of California by ensuring vehicles have properly equipped braking and lighting systems. The issuance of a brake and/or lamp certificate to a motor vehicle clearly denotes that specific inspection tasks, adjustments, and or repairs have been performed by the licensee. Once the inspection is completed, a certificate can only be signed by the licensed adjuster.

26. The brake certificate utilizes a series of check boxes for specific brake system

components which, if applicable to the vehicle, must be visually inspected for defects and or measured to verify whether it meets a satisfactory condition. Checking the box designated "DRUMS/ROTORS" indicates the adjuster removed the wheels and brake drums, visually inspected the inside surface of the drums. Checking the box designated "DRUMS/ROTORS" also indicates the adjuster removed the wheels and visually inspected the surface of the rotors for condition and measured the rotors to verify the thickness is within manufacturer specifications. Checking the box designated "LINING AND SHOES" indicates the adjuster removed the wheels and brake drums, visually inspected the linings and shoes on drum brakes and the linings on disc brakes for condition and measured them to verify they are within manufacturer specifications. Also, when the space documenting the number of feet required to stop the vehicle at 20 mph is completed, it indicates the adjuster road tested the vehicle at 20 mph and applied the brakes to arrive at the figure shown on the certificate. In addition to verifying the previously noted items, the Licensed Brake Adjuster must verify all other specific braking systems or components indicted by checked boxes on the certificate are installed and functioning properly.

UNDERCOVER OPERATION #1: 2000 TOYOTA

27. On April 9, 2019, an undercover operator of the Bureau (operator) took the Bureau's 2000 Toyota to Respondent Qui Auto Repair and told Respondent Nguyen that he needed a brake and lamp inspection and smog check. The left front disc brake rotor and right rear brake drum on the Bureau-documented vehicle were out of manufacture's service limits. The operator was told it would cost $150 for the inspection. The operator watched the vehicle enter the service bay, but never leave. After the work was completed, the operator filled out and signed a work order and paid Respondent Nguyen $150 in cash. Respondent Nguyen gave the operator a yellow copy of the work order and Brake Certificate BA3033022.

28. From April 23, 2019, through April 25, 2019, the Bureau inspected the vehicle and found that the left front disc brake rotor and the right rear brake drum had not been replaced.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements – ARD Registration)

29. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action

pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent Qui Auto Repair made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent certified under penalty of perjury on Brake Certificate BA3033022 that the disc brake rotors and brake drums had been measured and were within manufacturer's specifications when the left front disc brake rotor and right rear brake drum were not within specifications.

b. Respondent certified under penalty of perjury on Brake Certificate BA3033022 that a road test was performed when in fact no road test was performed to the 2000 Toyota.

SECOND CAUSE FOR DISCIPLINE

(Fraud – ARD Registration)

30. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent Qui Auto Repair committed acts constituting fraud, as follows: Respondent Qui Auto Repair obtained payment from the operator for performing the applicable inspections, adjustments, or repairs of the brake system on the Bureau's 2000 Toyota as specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent Qui Auto Repair failed to perform the necessary inspections, adjustments, and repairs in compliance with Bureau Regulations or the Vehicle Code.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – ARD Registration)

31. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent Qui Auto Repair failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9884.9, subd. (a)**: Respondent failed to provide the customer with a written estimate before commencing work on the Bureau's 2000 Toyota.

b. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3033022 as to

the Bureau's 2000 Toyota when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

c. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2000 Toyota in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

d. **Cal. Code Regs., tit. 16, § 3353, subd. (a):** Respondent failed to provide the operator with a written estimate before performing work on the Bureau's 2000 Toyota.

e. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3033022, which listed a brake inspection of the Bureau's 2000 Toyota, when in fact the inspection was not performed.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – Brake Station License)

32. Respondent Qui Auto Repair's brake station license is subject to disciplinary action pursuant Business and Professions Code section 9889.3, subdivisions (a), (c) and (h), in that Respondent Qui Auto Repair failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9884.9, subd. (a)**: Respondent failed to provide the customer with a written estimate before commencing work on the Bureau's 2000 Toyota.

b. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3033022 as to the Bureau's 2000 Toyota when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

c. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2000 Toyota in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

d. **Cal. Code Regs., tit. 16, § 3353, subd. (a):** Respondent failed to provide the operator with a written estimate before performing work on the Bureau's 2000 Toyota.

e. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3033022, which listed a brake inspection of the Bureau's 2000 Toyota, when in fact the inspection was not performed.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Brake Station License)

33. Respondent Qui Auto Repair's brake station license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Respondent Qui Auto Repair committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 27-29 above.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Smog Check Station License)

34. Respondent Qui Auto Repair's smog check station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Qui Auto Repair committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 27-29 above.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – Brake Adjuster License)

35. Respondent Nguyen's brake adjuster license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivisions (a), (c) and (h), in that Respondent Nguyen failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9884.9, subd. (a)**: Respondent failed to provide the customer with a written estimate before commencing work on the Bureau's 2000 Toyota.

b. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3033022 as to the Bureau's 2000 Toyota when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

c. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2000 Toyota in accordance with the

specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

d. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3033022, which listed a brake inspection of the Bureau's 2000 Toyota, when in fact the inspection was not performed.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Brake Adjuster License)

36. Respondent Nguyen's brake adjuster license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Respondent Nguyen committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 27-29 above.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Smog Technician Licenses)

37. Respondent Nguyen's smog check inspector license and smog check repair technician license are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Nguyen committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 27-29 above.

UNDERCOVER OPERATION #2: 2005 HONDA

38. On April 30, 2019, an undercover operator of the Bureau (operator) took the Bureau's 2005 Honda to Respondent Qui Auto Repair and told Respondent Nguyen that he needed a brake and lamp inspection and smog check. Respondent Nguyen had the operator sign a written work order for $150. The right front disc brake rotor and the left rear disc brake rotor on the Bureau-documented vehicle were out of manufacturer's service limits. The operator watched an inspector look at the tires from above, without bending over and without removing any of the tires. After the work was completed, the operator filled out and signed a work order paid Respondent Nguyen $150 in cash. Respondent Nguyen issued Brake Certificate BA3062416.

39. On or about May 20, 2019, the Bureau inspected the vehicle and found that the right front disc brake rotor and the left rear disc brake rotor had not been replaced.

TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements – ARD Registration)

40. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent Qui Auto Repair made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

c. Respondent certified under penalty of perjury on Brake Certificate BA3062416 that the disc brake rotors and brake drums had been measured and were within manufacturer's specifications when the left front disc brake rotor and right rear brake drum were not within specifications.

d. Respondent certified under penalty of perjury on Brake Certificate BA3062416 that the brake lining thicknesses were measured when in fact they were not measured.

e. Respondent certified under penalty of perjury on Brake Certificate BA3062416 that a road test was performed when in fact no road test was performed to the 2005 Honda.

ELEVENTH CAUSE FOR DISCIPLINE

(Fraud – ARD Registration)

41. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent Qui Auto Repair committed acts constituting fraud, as follows: Respondent Qui Auto Repair obtained payment from the operator for performing the applicable inspections, adjustments, or repairs of the brake system on the Bureau's 2005 Honda as specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent Qui Auto Repair failed to perform the necessary inspections, adjustments, and repairs in compliance with Bureau Regulations or the Vehicle Code.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – ARD Registration)

42. Respondent Qui Auto Repair's ARD Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that Respondent

Qui Auto Repair failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3062416 as to the Bureau's 2005 Honda when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

b. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2005 Honda in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

c. **Cal. Code Regs., tit. 16, § 3353, subd. (a):** Respondent failed to provide the operator with a written estimate before performing work on the Bureau's 2005 Honda.

d. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3062416, which listed a brake inspection of the Bureau's 2005 Honda, when in fact the inspection was not performed.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – Brake Station License)

43. Respondent Qui Auto Repair's brake station license is subject to disciplinary action pursuant Business and Professions Code section 9889.3, subdivisions (a), (c) and (h), in that Respondent Qui Auto Repair failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3062416 as to the Bureau's 2005 Honda when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

b. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2005 Honda in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

c. **Cal. Code Regs., tit. 16, § 3353, subd. (a):** Respondent failed to provide the operator

with a written estimate before performing work on the Bureau's 2005 Honda.

d. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3062416, which listed a brake inspection of the Bureau's 2005 Honda, when in fact the inspection was not performed.

FOURTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Brake Station License)

44. Respondent Qui Auto Repair's brake station license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Respondent Qui Auto Repair committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 40 above.

FIFTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Smog Station License)

45. Respondent Qui Auto Repair's smog check station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Qui Auto Repair committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 40 above.

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act – Brake Adjuster License)

46. Respondent Nguyen's brake adjuster license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivisions (a), (c) and (h), in that Respondent Nguyen failed to comply with the Automotive Repair Act and regulations promulgated thereunder, in the following material respects:

a. **Bus. & Prof. Code § 9889.16**: Respondent issued Brake Certificate BA3062416 as to the Bureau's 2005 Honda when the vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

b. **Cal. Code Regs., tit. 16, § 3305, subd. (a):** Respondent failed to perform the inspection of the brake system on the Bureau's 2005 Honda in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle

manufacturer.

c. **Cal. Code Regs., tit. 16, § 3373:** Respondent created a false document by issuing Brake Certificate BA3062416, which listed a brake inspection of the Bureau's 2005 Honda, when in fact the inspection was not performed.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Brake Adjuster License)

47. Respondent Nguyen's brake adjuster license is subject to disciplinary action pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Respondent Nguyen committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 38-40 above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Smog Technician Licenses)

48. Respondent Nguyen's smog check inspector license and smog check repair technician license are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Nguyen committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 38-40 above.

OTHER MATTERS

49. Pursuant to Business and Professions Code 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Qui Auto Repair upon a finding that Respondent Qui Auto Repair has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

50. Pursuant to Health & Safety Code section 44072.8, if Respondent Qui Auto Repair's Smog Station License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

51. Pursuant to Business and Professions Code section 9889.9, if Respondent Qui Auto Repair's Lamp Station License is revoked or suspended, any additional license issued under

Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the Director.

52. Pursuant to Business and Professions Code section 9889.9, if Respondent Qui Auto Repair's Brake Station License is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the Director.

53. Pursuant to Health & Safety Code section 44072.8, if Respondent Nguyen's Smog Check Inspector License or Smog Check Repair Technician License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

54. Pursuant to Business and Professions Code section 9889.9, if Respondent Nguyen's Lamp Adjuster License Number is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the Director.

55. Pursuant to Business and Professions Code section 9889.9, if Respondent Nguyen's Brake Adjuster License Number is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the Director.

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 or suspending Automotive Repair Dealer Registration No. ARD 284781, issued to Qui Auto Repair, Inc.;

2. Revoking or suspending Smog Check Station License No. RC 284781, issued to Qui Auto Repair, Inc.;

3. Revoking or suspending Brake Station License No. BS 284781, Class C, issued to Qui Auto Repair, Inc.;

4. Revoking or suspending Lamp Station License No. LS 284781, Class A, issued to

Qui Auto Repair, Inc.;

5. Revoking or suspending any additional Automotive Repair Dealer Registration, Smog Check Station License, Brake Station License or Lamp Station License issued to Qui Auto Repair, Inc.;

6. Revoking or suspending Smog Check Inspector License No. EO 135340, issued to Kenny Phuoc Nguyen;

7. Revoking or suspending Smog Check Repair Technician License No. EI 135340, issued to Kenny Phuoc Nguyen;

8. Revoking or suspending Brake Adjuster License No. BA 135340, Class C, issued to Kenny Phuoc Nguyen;

9. Revoking or suspending Lamp Adjuster License No. LA 135340, Class A, issued to Kenny Phuoc Nguyen;

10. Revoking or suspending any additional licenses issued to Kenny Phuoc Nguyen under Chapter 5, Part 5 of Division 26 of the Health and Safety Code, and/or under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code;

11. Ordering Qui Auto Repair, Inc. to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

11. Ordering Kenny Phuoc Nguyen to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: January 14, 2020

Signature on File

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

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