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8

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

12 In the Matter of the Accusation Against:

Case No. 79/10-23

13 **TRANS TEST ONLY SMOG STATION**  
14 **KENNY TRAN,**  
15 **a.k.a. HUU VIET TRAN, OWNER**  
16 **15193 Moran Street**  
**Westminster, CA 92683**

**ACCUSATION**

**(Smog Check)**

17 **Automotive Repair Dealer Reg. No. ARD 230946**  
**Smog Check, Test Only, Station License No. TC**  
**230946**

18 **KENNY TRAN**  
19 **13441 Galway Street**  
**Garden Grove, CA 92844**

20 **Advanced Emission Specialist Technician**  
21 **License No. EA 148246,**

22 **and**

23 **ANDERSON NGUYEN,**  
24 **a.k.a. QUAN TRONG NGUYEN**  
**8981 Natoma Avenue**  
**Westminster, CA 92683**

25 **Advanced Emission Specialist Technician**  
26 **License No. EA 148900**

27 Respondents.  
28

1 Complainant alleges:

2 **PARTIES**

3 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as  
4 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration No. ARD 230946**

6 2. On or about December 30, 2003, the Director of Consumer Affairs ("Director")  
7 issued Automotive Repair Dealer Registration Number ARD 230946 (hereinafter "ARD  
8 registration") to Kenny Tran, also known as Huu Viet Tran ("Respondent Tran"), owner of Trans  
9 Test Only Smog Station. Respondent's ARD registration was in full force and effect at all times  
10 relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

11 **Smog Check, Test Only, Station License No. TC 230946**

12 3. On or about May 23, 2005, the Director issued Smog Check, Test Only, Station  
13 License Number TC 230946 (hereinafter "smog check station license") to Respondent Tran.  
14 Respondent's smog check station license was in full force and effect at all times relevant to the  
15 charges brought herein and will expire on December 31, 2009, unless renewed.

16 **Advanced Emission Specialist Technician License No. EA 148246**

17 4. In or about 2004, the Director issued Advanced Emission Specialist Technician  
18 License Number EA 148246 (hereinafter "technician license") to Respondent Tran.  
19 Respondent's technician license was in full force and effect at all times relevant to the charges  
20 brought herein and will expire on August 31, 2010, unless renewed.

21 **Advanced Emission Specialist Technician License No. EA 148900**

22 5. In or about 2004, the Director issued Advanced Emission Specialist Technician  
23 License Number EA 148900 to Anderson Nguyen, also known as Quan Trong Nguyen  
24 ("Respondent Nguyen"). Respondent's technician license was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on November 30, 2009, unless renewed.

26 **JURISDICTION**

27 6. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
28 the Director may invalidate an automotive repair dealer registration.



1 "program," and "agency." "License" includes certificate, registration or other means to engage in  
2 a business or profession regulated by the Bus. & Prof. Code.

3 12. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

10 . . . .

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

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

15 13. Health & Saf. Code section 44072.10 states, in pertinent part:

16 . . . .

17 (c) The department shall revoke the license of any smog check technician  
18 or station licensee who fraudulently certifies vehicles or participates in the fraudulent  
19 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
20 the following:

21 (1) Clean piping, as defined by the department.

22 . . . .

23 (4) Intentional or willful violation of this chapter or any regulation,  
24 standard, or procedure of the department implementing this chapter . . .

25 14. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
26 suspended following a hearing under this article, any additional license issued under this chapter  
27 in the name of the licensee may be likewise revoked or suspended by the director.

28 **COST RECOVERY**

15 15. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
16 the administrative law judge to direct a licentiate found to have committed a violation or  
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
18 and enforcement of the case.

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1 VIDEO SURVEILLANCE OPERATION OF MARCH 9, 2009

2 16. On March 9, 2009, a representative of the Bureau conducted a video surveillance  
3 operation of Respondent Tran's smog check facility. The surveillance video and information  
4 obtained from the Bureau's vehicle information database ("VID") revealed that Respondents Tran  
5 and Nguyen issued electronic smog certificates of compliance, certifying that they had tested and  
6 inspected the vehicles identified below and that the vehicles were in compliance with applicable  
7 laws and regulations. In fact, Respondent Nguyen conducted four (4) of the inspections using  
8 clean piping methods<sup>1</sup>, and Respondent Tran conducted one of the inspections using clean-  
9 plugging methods<sup>2</sup>, resulting in the issuance of fraudulent certificates of compliance for the  
10 vehicles. Further, Respondents Tran and Nguyen failed to conduct the required functional fuel  
11 cap integrity test and functional low pressure fuel evaporative test on certain vehicles.

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Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
13 1. 09:53-10:03	1999 Toyota; 4FIR469	1999 Toyota; 4FIR469	VX710571C	Respondent Tran; functional fuel cap integrity test not performed
14 2. 10:11-10:26	1999 Chevrolet; 8J75655	1997 Honda; 4LWU606	VX710572C	Respondent Tran; Honda used during OBDII functional test on Chevrolet
15 3. 10:33-10:42	1998 Toyota; 4BRB825	1998 Toyota; 4BRB825	VX710573C	Respondent Tran; functional fuel cap integrity test not performed

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20 <sup>1</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t), "clean  
21 piping" means the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to  
issue a certificate of compliance for another vehicle.

22 <sup>2</sup> The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97  
23 analyzer. During the OBDII functional test, the technician is required to connect an interface cable from  
24 the BAR 97-analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through  
25 the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer  
about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the  
vehicle fails the OBDII functional test, it will fail the overall inspection.

26 Clean-plugging is the use of the OBDII readiness monitor status and stored fault code (trouble  
27 code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle  
28 that is not in compliance due to a failure to complete the minimum number of self tests, known as  
monitors, or due to the presence of a stored fault code that indicates an emission control system or  
component failure.

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
4. 10:47-10:53	1999 Toyota; 4EEY646	1999 Toyota; 4EEY646	VX710574C	Respondent Tran; functional fuel cap integrity test not performed
5. 11:59-12:19	1995 Toyota; 3VFC631	1995 Toyota; 3VFC631	None; vehicle failed inspection	Same as above.
6. 12:28-12:37	1997 Acura; 4XTH356	1997 Acura; 4XTH356	VX710575C	" " "
7. 12:41-12:48	2000 Toyota; 4KBN062	2000 Toyota; 4KBN062	VX710576C	Respondent Nguyen; functional fuel cap integrity test not performed
8. 12:52-12:56	2001 Toyota; 4ZMU138	2001 Toyota; 4ZMU138	VX710577C	Same as above.
9. 13:14-13:29	1992 Toyota; 2ZOD065	1992 Toyota; 2ZOD065	VX710578C	" " "
10. 13:37-13:43	1987 Toyota; 8M58563	1987 Toyota; 8M58563	VX710579C	Respondent Nguyen; functional low pressure fuel evaporative test not performed
11. 14:13-14:21	1993 Nissan; 4AFX055	1993 Nissan; 4AFX055	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
12. 14:28-14:37	1991 Mercedes; 2VWL881	1993 Lexus; 6DGC528	VX710580C	Respondent Nguyen; clean-piping; Mercedes not observed during surveillance
13. 15:00-15:18	1991 Toyota; 3VXZ587	1991 Toyota; 3VXZ587	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
14. 15:55-16:01	2001 Lincoln; 5NWB675	1999 Honda; 4GDB338	VX710582C	Respondent Nguyen; clean-piping; Lincoln not observed during surveillance
15. 16:17-16:33	2000 Toyota; 6F26106	1993 Lexus; 6DGC528	VX710583C	Respondent Nguyen; clean-piping; Toyota not observed during surveillance
16. 16:41-16:46	2003 Toyota; 5BPV451	2003 Toyota; 5BPV451	VX710584C	Respondent Nguyen; functional fuel cap integrity test not performed

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
17. 16:50-16:55	1991 Toyota; 3VXZ587	1991 Toyota; 3VXZ587	VX710585C	Respondent Nguyen; functional fuel cap integrity test not performed
18. 17:07-17:11	2003 Toyota; 5CCS119	2003 Toyota; 5CCS119	VX710587C	Same as above.
19. 17:14-17:18	2001 Honda; 4RYD314	2001 Honda; 4RYD314	VX710588C	“ “ “
20. 17:44-17:51	1995 Honda; 4ZQK734	1997 Honda; 4LWU606	VX710589C	Respondent Nguyen; clean-piping; 1995 Honda not observed during surveillance

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

17. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 12, 14, 15, and 20, identified in paragraph 16 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

b. Respondent Tran's technician, Respondent Nguyen, certified that vehicle 10, identified in paragraph 16 above, had passed inspection and was in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional low pressure fuel evaporative test on the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

c. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 7 through 9 and 16 through 19, identified in paragraph 16 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform

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1 the functional fuel cap integrity test on the vehicles and did not test or inspect the vehicles as  
2 required by Health & Saf. Code section 44012.

3 d. Respondent Tran certified that vehicle 2, identified in paragraph 16 above, had passed  
4 inspection and was in compliance with applicable laws and regulations. In fact, Respondent Tran  
5 used clean-plugging methods in order to issue a certificate for the vehicle and did not test or  
6 inspect the vehicle as required by Health & Saf. Code section 44012.

7 e. Respondent Tran certified that vehicles 1, 3, 4, and 6, identified in paragraph 16  
8 above, had passed inspection and were in compliance with applicable laws and regulations. In  
9 fact, Respondent Tran failed to perform the functional fuel cap integrity test on the vehicles and  
10 did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 18. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus.  
14 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which  
15 constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 4, 6  
16 through 10, 12, and 14 through 20, identified in paragraph 16 above, without performing bona  
17 fide inspections of the emission control devices and systems on the vehicles, thereby depriving  
18 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
19 Program.

20 **THIRD CAUSE FOR DISCIPLINE**

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

22 19. Respondent Tran's smog check station license is subject to disciplinary action  
23 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
24 comply with provisions of that Code, as follows:

25 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1  
26 through 20, identified in paragraph 16 above, in accordance with procedures prescribed by the  
27 department.

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1 certificates of compliance for vehicles 1 through 4, 6 through 10, 12, and 14 through 20,  
2 identified in paragraph 16 above, without performing bona fide inspections of the emission  
3 control devices and systems on the vehicles, thereby depriving the People of the State of  
4 California of the protection afforded by the Motor Vehicle Inspection Program.

5 **SIXTH CAUSE FOR DISCIPLINE**

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

7 22. Respondent Tran's technician license is subject to disciplinary action pursuant to  
8 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
9 provisions of that Code, as follows:

10 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1  
11 through 6, identified in paragraph 16 above, in accordance with procedures prescribed by the  
12 department.

13 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
14 issuance of fraudulent certificates of compliance for vehicles 1 through 4 and 6, identified in  
15 paragraph 16 above.

16 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 23. Respondent Tran's technician license is subject to disciplinary action pursuant to  
20 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
21 provisions of California Code of Regulations, title 16, as follows:

22 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
23 electronic smog certificates of compliance for vehicles 1 through 4 and 6, identified in paragraph  
24 16 above.

25 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 1  
26 through 6, identified in paragraph 16 above, in accordance with Health & Saf. Code sections  
27 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

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1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1  
2 through 6, identified in paragraph 16 above, in accordance with the Bureau's specifications.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 24. Respondent Tran's technician license is subject to disciplinary action pursuant to  
6 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
7 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
8 compliance for vehicles 1 through 4 and 6, identified in paragraph 16 above, without performing  
9 bona fide inspections of the emission control devices and systems on the vehicles, thereby  
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
11 Inspection Program.

12 **NINTH CAUSE FOR DISCIPLINE**

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

14 25. Respondent Nguyen's technician license is subject to disciplinary action pursuant to  
15 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
16 provisions of that Code, as follows:

17 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 7  
18 through 20, identified in paragraph 16 above, in accordance with procedures prescribed by the  
19 department.

20 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
21 issuance of fraudulent certificates of compliance for vehicles 7 through 10, 12, and 14 through 20,  
22 identified in paragraph 16 above.

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**VIDEO SURVEILLANCE OPERATION OF MARCH 10, 2009**

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28. On March 10, 2009, a representative of the Bureau conducted a video surveillance operation of Respondent Tran's smog check facility. The surveillance video and information obtained from the Bureau's VID revealed that Respondents Tran and Nguyen issued electronic smog certificates of compliance, certifying that they had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Nguyen conducted one of the inspections using clean piping methods, resulting in the issuance of a fraudulent certificate of compliance for the vehicle. Further, Respondents Tran and Nguyen failed to conduct the required functional fuel cap integrity test and functional low pressure fuel evaporative test on certain vehicles.

<b>Time of Inspection</b>	<b>Vehicle Certified and License No.</b>	<b>Vehicle Actually Tested</b>	<b>Certificate of Compliance No.</b>	<b>Technician Performing Test/Violation</b>
1. 09:49-09:59	2001 Honda; 4WBM157	2001 Honda; 4WBM157	VX710590C	Respondent Tran; functional fuel cap integrity test not performed
2. 10:20-10:29	1998 Honda; 2HOT	1998 Honda; 2HOT	VX710592C	Same as above.
3. 10:35-10:45	1998 Toyota; 4RSW872	1998 Toyota; 4RSW872	VX710593C	" " "
4. 11:47-12:06	1995 Honda; 5FCT166	1995 Honda; 5FCT166	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
5. 12:47-13:04	1992 Mercedes; 3CEG703	1992 Mercedes; 3CEG703	VX710595C	Respondent Tran; functional low pressure fuel evaporative test not performed
6. 13:09-13:15	1987 Toyota; 3ABE591	1987 Toyota; 3ABE591	None; vehicle failed inspection	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
7. 13:20-13:27	1993 Lexus; 6DGC528	1993 Lexus; 6DGC528	VX710596C	Respondent Nguyen; functional low pressure fuel evaporative test not performed

Time of Inspection	Vehicle Certified and License No.	Vehicle Actually Tested	Certificate of Compliance No.	Technician Performing Test/Violation
8. 14:48-14:55	1995 Honda; 5FCT166	1995 Honda; 5FCT166	VX710600C	Respondent Nguyen; functional low pressure fuel evaporative test & functional fuel cap integrity test not performed
9. 15:00-15:14	1996 GMC; 7L80281	1993 Lexus; 6DGC528	VX763401C	Respondent Nguyen; clean piping; GMC not observed during surveillance
10. 15:30-15:35	1998 Honda; 5KEG397	1998 Honda; 5KEG397	VX763402C	Respondent Nguyen; functional fuel cap integrity test not performed
11. 16:36-16:41	1999 Honda; 4EYH164	1999 Honda; 4EYH164	VX763404C	Same as above.

**TWELFTH CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

29. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Tran's technician, Respondent Nguyen, certified that vehicle 9, identified in paragraph 28 above, had passed inspection and was in compliance with applicable laws and regulations. In fact, Respondent Nguyen used clean piping methods in order to issue a certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

b. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 7 and 8, identified in paragraph 28 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional low pressure fuel evaporative test on the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

c. Respondent Tran's technician, Respondent Nguyen, certified that vehicles 8, 10, and 11, identified in paragraph 28 above, had passed inspection and were in compliance with

1 applicable laws and regulations. In fact, Respondent Nguyen failed to perform the functional fuel  
2 cap integrity test on the vehicles and did not test or inspect the vehicles as required by Health &  
3 Saf. Code section 44012.

4 d. Respondent Tran certified that vehicle 5, identified in paragraph 28 above, had passed  
5 inspection and was in compliance with applicable laws and regulations. In fact, Respondent Tran  
6 failed to perform the functional low pressure fuel evaporative test on the vehicle and did not test  
7 or inspect the vehicle as required by Health & Saf. Code section 44012.

8 e. Respondent Tran certified that vehicles 1 through 3, identified in paragraph 28 above,  
9 had passed inspection and were in compliance with applicable laws and regulations. In fact,  
10 Respondent Tran failed to perform the functional fuel cap integrity test on the vehicles and did  
11 not test or inspect the vehicles as required by Health & Saf. Code section 44012.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 30. Respondent Tran's ARD registration is subject to disciplinary action pursuant to Bus.  
15 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which  
16 constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 3, 5,  
17 and 7 through 11, identified in paragraph 28 above, without performing bona fide inspections of  
18 the emission control devices and systems on the vehicles, thereby depriving the People of the  
19 State of California of the protection afforded by the Motor Vehicle Inspection Program.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

22 31. Respondent Tran's smog check station license is subject to disciplinary action  
23 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
24 comply with provisions of that Code, as follows:

25 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1  
26 through 11, identified in paragraph 28 above, in accordance with procedures prescribed by the  
27 department.

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1 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
2 the Motor Vehicle Inspection Program.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

5 34. Respondent Tran's technician license is subject to disciplinary action pursuant to  
6 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
7 provisions of that Code, as follows:

8 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1  
9 through 3 and 5, identified in paragraph 28 above, in accordance with procedures prescribed by  
10 the department.

11 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
12 issuance of fraudulent certificates of compliance for vehicles 1 through 3 and 5, identified in  
13 paragraph 28 above.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

17 35. Respondent Tran's technician license is subject to disciplinary action pursuant to  
18 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
19 provisions of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
21 electronic smog certificates of compliance for vehicles 1 through 3 and 5, identified in paragraph  
22 28 above.

23 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test vehicles 1  
24 through 3 and 5, identified in paragraph 28 above, in accordance with Health & Saf. Code  
25 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

26 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1  
27 through 3 and 5, identified in paragraph 28 above, in accordance with the Bureau's specifications.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent Tran's technician license is subject to disciplinary action pursuant to  
4 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
5 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
6 compliance for vehicles 1 through 3 and 5, identified in paragraph 28 above, without performing  
7 bona fide inspections of the emission control devices and systems on the vehicles, thereby  
8 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
9 Inspection Program.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

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

12 37. Respondent Nguyen's technician license is subject to disciplinary action pursuant to  
13 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
14 provisions of that Code, as follows:

15 a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 4  
16 and 6 through 11, identified in paragraph 28 above, in accordance with procedures prescribed by  
17 the department.

18 b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the  
19 issuance of fraudulent certificates of compliance for vehicles 7 through 11, identified in  
20 paragraph 28 above.

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1 Viet Tran, owner of Trans Test Only Smog Station, upon a finding that said Respondent has, or  
2 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to  
3 an automotive repair dealer.

4 41. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only,  
5 Station License Number TC 230946, issued to Respondent Kenny Tran, also known as Huu Viet  
6 Tran, owner of Trans Test Only Smog Station, is revoked or suspended, any additional license  
7 issued under this chapter in the name of said licensee may be likewise revoked or suspended by  
8 the Director.

9 42. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
10 Technician License Number EA 148246, issued to Respondent Kenny Tran, also known as Huu  
11 Viet Tran, is revoked or suspended, any additional license issued under this chapter in the name  
12 of said licensee may be likewise revoked or suspended by the Director.

13 43. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
14 Technician License Number EA 148900, issued to Anderson Nguyen, also known as Quan Trong  
15 Nguyen, is revoked or suspended, any additional license issued under this chapter in the name of  
16 said licensee may be likewise revoked or suspended by the Director.

17 **PRAYER**

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

20 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration  
21 Number ARD 230946, issued to Kenny Tran, also known as Huu Viet Tran, owner of Trans Test  
22 Only Smog Station;

23 2. Temporarily or permanently invalidating any other automotive repair dealer  
24 registration issued to Kenny Tran, also known as Huu Viet Tran;

25 3. Revoking or suspending Smog Check, Test Only, Station License Number  
26 TC 230946, issued to Kenny Tran, also known as Huu Viet Tran, owner of Trans Test Only Smog  
27 Station;

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4. Revoking or suspending Advanced Emission Specialist Technician License  
Number EA 148246, issued to Kenny Tran, also known as Huu Viet Tran;

5. Revoking or suspending any additional license issued under Chapter 5 of the  
Health and Safety Code in the name of Kenny Tran, also known as Huu Viet Tran;

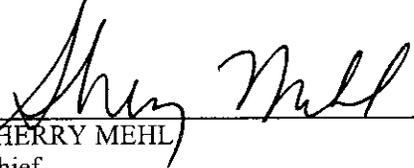
6. Revoking or suspending Advanced Emission Specialist Technician License  
Number EA 148900, issued to Anderson Nguyen, also known as Quan Trong Nguyen;

7. Revoking or suspending any additional license issued under Chapter 5 of the  
Health and Safety Code in the name of Anderson Nguyen, also known as Quan Trong Nguyen; ;

8. Ordering Kenny Tran, also known as Huu Viet Tran, owner of Trans Test Only  
Smog Station, and Anderson Nguyen, also known as Quan Trong 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;

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

DATED: 10/15/09



SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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