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

In the Matter of the Petition to Revoke
Probation Against:

Case No. 77/08-27

**LAWRENCE & PETTY, INC., DBA
BLACKSTONE TIRE & SERVICE
4764 N. Blackstone
Fresno, CA 93726-0104
RICK L. PETTY, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 113077**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 8, 2011, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Petition to Revoke Probation No. 77/08-27 against Lawrence & Petty, Inc., dba Blackstone Tire & Service; Rick L. Petty (Respondent) before the Director of Consumer Affairs. (Petition to Revoke Probation attached as **Exhibit A.**)

2. On a date uncertain in 1984, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 113077 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 77/08-27 and will expire on October 31, 2011, unless renewed.

///

1 3. On or about September 8, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Petition to Revoke Probation No. 77/08-27, Statement to Respondent, Notice
3 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 136, is required to be reported and maintained with the Bureau, which
6 was and is:

7 4764 N. Blackstone
8 Fresno, CA 93726-0104

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

12 5. As of October 27, 2011, the aforementioned documents have not been returned by the
13 U.S. Postal Service and are presumed to have been received. Additionally, we received
14 correspondence from Respondent dated October 13, 2011 indicating the business is closed
15 attached as **Exhibit B**. It also indicated his new address is P.O. Box 1414, Roseburg, OR 97470.

16 6. Government Code section 11506 states, in pertinent part:

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon them
23 of the Petition to Revoke Probation, and therefore waived their right to a hearing on the merits of
24 Petition to Revoke Probation No. 77/08-27.

25 8. California Government Code section 11520 states, in pertinent part:

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

 9. Pursuant to its authority under Government Code section 11520, the Director after
having reviewed the proof of service dated September 8, 2011, signed by L. Carnahan, with no

1 returned mail, finds Respondent is in default. The Director will take action without further
2 hearing and, based on Petition to Revoke Probation, No. 77/08-27, proof of service and on the
3 Affidavit of Bureau Representative Gilbert T. Sanchez, finds that the allegations in Petition to
4 Revoke Probation are true.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$462.50 as of October 27, 2011.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Lawrence & Petty, Inc., dba
10 Blackstone Tire & Service; Rick L. Petty has subjected its Automotive Repair Dealer Registration
11 No. ARD 113077 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
14 Repair Dealer Registration based upon the following violations alleged in the Petition to Revoke
15 Probation which are supported by the evidence contained in the affidavit of Bureau
16 Representative Gilbert T. Sanchez in this case.:

17 CAUSE TO REVOKE PROBATION

18 (Failure to Appear for a Scheduled Probation Conference)

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

20 Respondent must report in person or in writing as prescribed by the bureau, on
21 a schedule set by the bureau, but no more frequently than once each quarter, on the
22 methods used and success achieved in complying with the conditions of probation.

23 5. Respondent's probation is subject to revocation because Respondent failed to comply
24 with Probation Condition 3, referenced above. The facts and circumstances regarding this
25 violation are that Respondent failed to appear for a probation conference scheduled for January 4,
26 2011.

26 ///

27 ///

28 ///

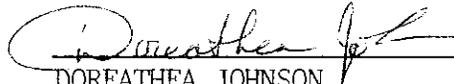
1 ORDER

2 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 113077,
3 heretofore issued to Respondent Lawrence & Petty, Inc., dba Blackstone Tire & Service; Rick L.
4 Petty, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
8 Bureau of Automotive Repair, ATTN: Tim Corcoran, 10220 Systems Parkway, Sacramento, CA
9 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of
10 good cause, as defined in the statute.

11 This Decision shall become effective on January 24, 2012.

12 It is so ORDERED December 16, 2011

13
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15 
16 DOREATHEA JOHNSON
17 Deputy Director, Legal Affairs
18 Department of Consumer Affairs

18 10771075.DOC
19 DOJ Matter ID:SA2011100198

20 Attachment:
21 Exhibit A: Petition to Revoke Probation
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Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 77/08-27

13 **LAWRENCE & PETTY, INC., DBA**
14 **BLACKSTONE TIRE & SERVICE**
4764 N. Blackstone
Fresno, CA 93726-0104
15 **RICK L. PETTY, PRESIDENT**
16 **Automotive Repair Dealer Registration**
No. ARD 113077

PETITION TO REVOKE PROBATION

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Sherry Mehl ("Complainant") brings this Petition to Revoke Probation solely in her
22 official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of
23 Consumer Affairs.

24 **Automotive Repair Dealer Registration**

25 2. On a date uncertain in 1984, the Bureau issued Automotive Repair Dealer
26 Registration Number ARD 113077 ("registration") to Lawrence & Petty, Inc., ("Respondent")
27 doing business as Blackstone Tire & Service with Rick L. Petty as President. The registration
28

1 was in effect at all times relevant to the charges brought herein and will expire on October 31,
2 2011, unless renewed.

3 **Prior Discipline**

4 3. In a disciplinary action entitled "In the Matter of Accusation Against Lawrence &
5 Petty, Inc., dba Blackstone Tire & Service," Case No. 77/08-27, the Director of Consumer Affairs
6 for the Bureau of Automotive Repair, issued a decision, effective September 30, 2010, in which
7 Respondent's Automotive Repair Dealer Registration No. ARD 113077 was revoked. However,
8 the revocation was stayed and Respondent's registration was placed on probation for a period of
9 three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A
10 and is incorporated by reference.

11 **STATUTORY PROVISIONS**

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

16 5. Grounds exist for revoking the probation and reimposing the order of revocation of
17 Respondent's Automotive Repair Dealer Registration No. ARD 113077. Condition 7 of the
18 Decision states:

19 If the director determines that respondent has failed to comply with a
20 condition of probation, the department may, after giving notice and an opportunity to
be heard, permanently revoke respondent's registration.

21 6. Respondent has violated the Probation Program, as more particularly set forth in the
22 following paragraphs:

23 **CAUSE TO REVOKE PROBATION**

24 **(Failure to Appear for a Scheduled Probation Conference)**

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

26 Respondent must report in person or in writing as prescribed by the
27 bureau, on a schedule set by the bureau, but no more frequently than once each
28 quarter, on the methods used and success achieved in complying with the conditions
of probation.

1 8. Respondent's probation is subject to revocation because Respondent failed to comply
2 with Probation Condition 3, referenced above. The facts and circumstances regarding this
3 violation are that Respondent failed to appear for a probation conference scheduled for January 4,
4 2011.

5 OTHER MATTERS

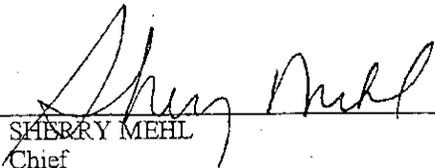
6 9. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
7 or permanently, the registrations for all places of business operated in this state by Lawrence &
8 Petty, Inc., doing business as Blackstone Tire & Service, upon a finding that it has, or is, engaged
9 in a course of repeated and willful violations of the laws and regulations pertaining to an
10 automotive repair dealer.

11 PRAYER

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

- 14 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
15 No. 77/08-27 and imposing the disciplinary order that was stayed thereby revoking Automotive
16 Repair Dealer Registration No. ARD 113077, issued to Lawrence & Petty, Inc., doing business as
17 Blackstone Tire & Service;
- 18 2. Revoking or suspending Automotive Repair Dealer Registration No. ARD 113077,
19 issued to Lawrence & Petty, Inc., doing business as Blackstone Tire & Service; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 8/25/11


23 SHERRY MEHL
Chief

24 Bureau of Automotive Repair
25 Department of Consumer Affairs
26 State of California
27 Complainant

28 SA2011100198
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