

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

In the Matter of the Accusation Against:

**LAWRENCE & PETTY, INC.**  
**dba BLACKSTONE TIRE & SERVICE**  
Fresno, California  
**RICK L. PETTY, President**

Automotive Repair Dealer Registration  
No. ARD 113077

Respondent.

Case No. 77/08-27

OAH No. 2010020187

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective September 30, 2010.

IT IS SO ORDERED August 24, 2010.

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

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

In the Matter of the Accusation Against

LAWRENCE & PETTY, INC., DBA  
BLACKSTONE TIRE & SERVICE  
Fresno, California  
RICK L. PETTY, PRESIDENT

Automotive Repair Dealer Registration  
No. ARD 113077

Respondent.

No. 77/08-27

OAH No. 2010020187

**PROPOSED DECISION**

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on July 15, 2010, in Fresno, California.

Arthur D. Taggart, Supervising Deputy Attorney General, represented the complainant, Sherry Mehl, Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

Rick L. Petty, president of Lawrence & Petty, Inc., appeared in propria persona.

The record was closed on July 15, 2010.

**SUMMARY AND ISSUES**

Respondent holds an automotive repair dealer registration. Respondent's employee, in connection with performing his duties at respondent's place of business, committed insurance fraud.

Complainant seeks a stayed invalidation of respondent's registration with the registration placed on probation for three years; cost recovery; and a 45-day suspension.

Respondent does not contest the request for a stayed invalidation and three years of probation. Also, respondent does not contest "the cost recovery amount."

The only issues are: Should the discipline include a 45-day suspension? Should the bureau recover costs?

## FACTUAL FINDINGS

### *BACKGROUND*

1. On October 3, 1984, the Bureau of Automotive Repair issued automotive repair dealer registration number ARD 113077 to the respondent, Lawrence & Petty, Inc., doing business as Blackstone Tire and Service.

2. Rick L. Petty began working for respondent in 1982. He later acquired part of the stock in the corporation, and in 2000 acquired the balance of the stock. Here the term "respondent" will be used to refer to both the corporation and Mr. Petty. Mr. Petty manages the operation of the business. In 2006, he sold a minority interest in the corporation to Patrick McDonough, a longtime employee. Mr. Petty anticipated that, in the future, Mr. McDonough would buy the balance of the stock.

3. In 2007, the bureau, in conjunction with the Department of Insurance, conducted an undercover operation at respondent's shop. During the course of that operation, Mr. McDonough committed insurance fraud.

### *THE JANUARY 12, 2007, UNDERCOVER OPERATION*

4. The parties entered into a stipulation that the facts alleged in the accusation are true and correct. Facts alleged include the following: On January 12, 2007, an investigator went to respondent's shop to determine whether people at the shop would conspire to commit insurance fraud. The investigator, a woman, pretended to be a potential customer who was interested in buying new wheels and tires for her car. She spoke with Mr. McDonough. She said she was going to report to her insurance company that her wheels and tires had been stolen. She asked Mr. McDonough whether he would be willing to provide her with a receipt showing that she had paid for new wheels and tires. She said that, after she got the money from her insurance company, she would return to purchase wheels and tires. Mr. McDonough gave the woman an invoice dated January 12, 2006, [sic] showing that she had purchased wheels, tires, and a lug nut kit for \$769.09. He wrote on the invoice, "paid cash." In fact, the woman had bought nothing and paid nothing. Thus, respondent, by and through Mr. McDonough, made statements that respondent knew to be false or misleading or, in the exercise of reasonable care, should have known to be false or misleading. On February 25, 2008, in the Superior Court of California for the County of Fresno, Mr. McDonough was convicted of a violation of Penal Code section 550, subdivision (b)(1), insurance fraud, a misdemeanor. The conviction was on a plea of nolo contendere.

5. The parties further stipulated that Mr. Petty did not participate in the acts underlying the conviction.

*STEPS MR. PETTY TOOK AFTER LEARNING OF THE FRAUD*

6. Mr. Petty gave Mr. McDonough a written reprimand and notice of probation dated June 1, 2007. Mr. Petty advised Mr. McDonough that any future misconduct or unlawful act would result in immediate dismissal.

7. Mr. Petty went through Mr. McDonough's desk to determine whether there was any evidence of other misconduct. He questioned a few customers who dealt with Mr. McDonough regularly. He spot checked paperwork Mr. McDonough had generated during the previous 90 days. He reviewed estimates Mr. McDonough had given and compared them with invoices.

8. In January of 2008, Mr. Petty initiated a new policy concerning insurance estimates. Employees are prohibited from giving insurance estimates. Only Mr. Petty may give an insurance estimate. He required all employees to sign a copy of the new policy to acknowledge that they understood it.

*MR. PETTY DID NOT DISMISS MR. MCDONOUGH*

9. At the time Mr. Petty learned of the fraud, he was in Oregon. He returned two days later and talked with Mr. McDonough about the disgrace he had brought on the business.

10. Mr. Petty did not dismiss Mr. McDonough. Mr. Petty considered Mr. McDonough to have been a loyal employee for 13 years. He owned stock in the corporation. He was industrious, and he was courteous to customers.

11. At the time Mr. Petty learned of the fraud, he assumed that, if he dismissed Mr. McDonough, the corporation would be required to buy back the stock Mr. McDonough had purchased, and the corporation did not have the funds to do that. Mr. Petty now understands that his assumption was not correct – that he could have dismissed Mr. McDonough as an employee without buying back Mr. McDonough's stock.

12. Mr. Petty concluded that Mr. McDonough could redeem himself.

13. Mr. Petty is determined not to sell any more stock to Mr. McDonough, and Mr. Petty is trying to find the funds to buy back Mr. McDonough's stock.

*MITIGATION*

14. Mr. Petty makes no excuses for Mr. McDonough. He said Mr. McDonough engaged in dishonesty for the sake of a possible future sale. Mr. Petty testified that Mr. McDonough's conduct was fraudulent and not to be tolerated.

15. There is no evidence that Mr. Petty knew or had reason to know that Mr. McDonough was dishonest. He testified that what Mr. McDonough did “was a complete surprise to me.” There is no evidence that Mr. Petty failed to provide an appropriate level of training or supervision for his employees.

16. Mr. Petty testified convincingly that, for the entire time he has worked at Blackstone Tire and Service, he has had “a critical interest in maintaining honesty and integrity.” He said he will do everything he can to prevent employee dishonesty in the future.

17. Blackstone Tire and Service has been in business for 35 years, and there is no evidence of any prior complaints regarding the business.

18. In response to an inquiry by Mr. McDonough, an employee of the bureau wrote a letter dated August 23, 2007, in which he said the bureau had no record of any complaints against Blackstone Tire and Service.

19. Mr. Petty testified that, on July 6, 2010, he spoke with a representative of the Better Business Bureau of Fresno and requested a rating for Blackstone Tire and Service. He said he was told the rating was an “A” and that the highest rating is an “A+.” He said he was told, also, that the Better Business Bureau maintains a record of complaints for three years, and there are no complaints on record regarding Blackstone Tire and Service.

*MR. PETTY'S TESTIMONY THAT A 45-DAY SUSPENSION WOULD RESULT IN HIS HAVING TO CLOSE HIS BUSINESS*

20. Mr. Petty testified that the last four years have been economically difficult. In 2000, the business employed eight people. It now employs six. Mr. Petty submitted a written statement in which he said he works full time at the business but recently has not drawn a salary. He wrote he has forgone collecting a salary in order to be able to continue to pay the other employees.

21. Mr. Petty testified that a 45-day suspension “will destroy us” and “cause us to have to close our doors.” He said it would leave a few families without an income.

*THERE IS NO EVIDENCE THAT MR. MCDONOUGH HAS BEEN REHABILITATED*

22. Mr. Petty testified that Mr. McDonough felt he did nothing wrong. Mr. Petty testified that Mr. McDonough claims that he intended to write, “Estimate. To be paid in cash.” Mr. McDonough’s claim is not believable. There is no evidence that Mr. McDonough has been rehabilitated.

*COSTS OF INVESTIGATION AND PROSECUTION*

23. Complainant submitted a declaration by Mr. Taggart showing costs of \$1,137 for the services performed by the Office of the Attorney General. Mr. Taggart's declaration contains a general statement of the tasks performed and a statement of the method of calculating the costs. It is found that the \$1,137 is reasonable as the cost of the services performed by the Office of the Attorney General.

*THE PRAYER AND THE DISCIPLINE COMPLAINANT SEEKS*

24. In the prayer, complainant seeks temporary or permanent invalidation of respondent's registration, temporary or permanent invalidation of any other registration respondent holds, cost recovery, and "other and further action as deemed necessary and proper."

25. Regarding the prayer for temporary or permanent invalidation of any other registration respondent holds, it is found that there was no evidence that respondent has engaged in a course of repeated and willful violations. Also, there was no evidence that respondent holds any other registration.

26. Counsel for complainant advised that the discipline complainant seeks is a stayed invalidation of respondent's registration with the registration placed on probation for three years; cost recovery; and a 45-day suspension. While the prayer does not expressly request a 45-day suspension, respondent did not contend that he was surprised in any way by that request. Moreover, as noted above, the prayer does request "other . . . action as deemed . . . proper."

27. Mr. Petty advised that he does not contest the request for a stayed invalidation and three years of probation. He advised, also, that he does not contest "the cost recovery amount." He does, however, contest the request for a suspension.

*CREDIBILITY*

28. Respondent was very credible. His testimony was consistent with other evidence. He answered questions fully and without hesitation. In answering questions, he appeared to be careful and sincere.

**LEGAL CONCLUSIONS**

*RESPONDENT'S EMPLOYEE MADE STATEMENTS HE KNEW WERE UNTRUE*

1. By reason of the matters set forth in Findings 3 and 4, it is determined that respondent's employee made statements he knew were untrue. Thus, pursuant to Business

and Professions Code section 9884.7, subdivision (a)(1), there is cause to invalidate respondent's automotive repair dealer registration.

*THERE IS NO EVIDENCE THAT RESPONDENT ENGAGED IN A COURSE OF REPEATED AND WILLFUL VIOLATIONS*

2. Complainant prays that respondent's registration for all other places of business be invalidated on the ground that, within the terms of Business and Professions Code section 9884.7, subdivision (c), respondent engaged in a course of repeated and willful violations of the law and regulations pertaining to an automotive repair dealer. There is no evidence, however, that respondent engaged in a course of repeated violations. Also, there is no evidence that respondent holds a registration for any other place of business.

3. Mr. McDonough's untruthfulness and fraud do not show that respondent violated the law. They are grounds for invalidating respondent's registration because Business and Professions Code section 9884.7 causes an employee's misconduct to be a ground for invalidation without any proof that the employing dealer engaged in misconduct.

*THE APPROPRIATE DISCIPLINE IS A STAYED INVALIDATION WITH THE ISSUANCE OF A PROBATIONARY REGISTRATION*

4. Mr. McDonough's commission of insurance fraud was an extremely serious matter. The bureau has a mandate to protect the public welfare. Insurance fraud has far reaching negative consequences. Because the conspiracy occurred in the operation of respondent's business, it is appropriate to discipline his registration. For one thing, it is appropriate to be certain he does not continue to employ Mr. McDonough who, according to the slight evidence presented on the matter, has not been rehabilitated. Also, it is appropriate to impose conditions to require respondent to report to the bureau regularly as to measures he is taking to train and supervise his employees. This is not a case, however, in which there is evidence that respondent engaged in misconduct in connection with the fraud. There is no evidence that he participated in or even knew of Mr. McDonough's fraud. There is no evidence that he had any reason to suspect that Mr. McDonough was a dishonest person. There is no evidence that respondent failed to provide appropriate supervision. For these reasons, this is not a case in which outright invalidation of the registration would be appropriate, and complainant does not seek that.

5. Complainant does, however, seek a 45-day suspension. Respondent testified eloquently regarding the hardship a suspension would cause. He testified that the business has been struggling economically and that a 45-day suspension would cause the business to fail and close. His testimony was credible. But if a suspension is needed in order to protect the public, it must be imposed in spite of the fact that it would cause the business to fail and close. If, for example, 45 days were needed to implement changes required to protect the public, a suspension should be imposed no matter what the consequences. But in this case, respondent, with one exception, has already made appropriate changes to protect the public. The exception is that respondent has not dismissed Mr. McDonough, which the

public interest requires him to do. That, however, does not require 45 days; it can be done immediately. In this case, the only purpose and effect of a 45-day suspension would be to penalize Mr. Petty. But there is no evidence that Mr. Petty has done anything that would warrant a penalty. Moreover, it must be borne in mind that the purpose of licensing discipline is not to penalize a licensee but to protect the public.<sup>1</sup>

6. *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, concerned a stayed suspension of a doctor's license. In arriving at a decision to impose the discipline, the standard of proof the Board of Medical Quality Assurance applied was the preponderance of the evidence standard. In State Bar cases there was precedent for applying a standard of clear and convincing proof to a reasonable certainty. The doctor sought a writ of mandate, and the Board of Medical Quality Assurance contended that, because of the special nature of disciplinary proceedings regarding attorneys, the precedent requiring a higher standard of proof was inapplicable to other licenses. The Court of Appeal compared the policy considerations underlying disciplinary proceedings in the two professions and rejected the board's contention. At page 856, the court said:

The State Bar Act is designed to provide a procedure whereby those attorneys at law who prove recreant to their trust may be removed from the ranks of the profession. The public, as well as the legal profession and the courts, must be protected from those who do not measure up to their responsibilities . . . . The purpose of disbarment proceedings is not to punish the individual but to determine whether the attorney should continue in that capacity. [Citations.]

The purpose of an administrative proceeding concerning the revocation or suspension of a license is not to punish the individual; the purpose is to protect the public from dishonest, immoral, disreputable or incompetent practitioners. [Citations.]

. . . [I]t is apparent that the underlying purpose of disciplining both attorneys and physicians is protection of the public . . . .

7. *Meade v. State Collection Agency Board* (1960) 181 Cal.App.2d 774, concerned the revocation of a license based on multiple counts alleged in an administrative accusation. The respondent, in contending that only one count could be a ground for imposing discipline, asserted the criminal rule concerning lesser included offenses. The Court of Appeal held that the rule of lesser included offenses was inapplicable to

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<sup>1</sup> *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Meade v. State Collection Agency Board* (1960) 181 Cal.App.2d 774, 776-777; *West Coast Home Improvement Co. v. Contractors' State License Board* (1945) 72 Cal.App.2d 287, 301.

administrative discipline. No punishment was intended, and no question of consecutive sentences could arise. At pages 776 through 777, the court said:

[T]he revocation or suspension of a license is not penal in nature but is a mechanism by which licensees who have demonstrated their ignorance, incompetency, or lack of honesty and integrity may be removed from the licensed business. The legislation was not intended to provide for punishment but to afford protection of the public. [Citations.] Or, as stated another way, the purpose of the proceeding is to determine the fitness of the licensee to continue in that capacity and thus to protect society by removing, either temporarily or permanently, from the licensed business or profession, a licensee whose methods of conducting his business indicate a lack of those qualities which the law demands. [Citations.]

8. In *West Coast Home Improvement Co. v. Contractors' State License Board* (1945) 72 Cal.App.2d 287, a contractor whose license had been revoked brought a proceeding in mandamus. The contractor asserted a number of grounds – including a contention that it had been error for the administrative law judge not to advise the president of the corporate licensee that he had a right not to testify. The Court of Appeal held that, because the proceeding was not a criminal proceeding, there was no right not to testify. At pages 301 through 302, the court said:

The object of establishing the Contractors' State License Board and vesting in the registrar of contractors disciplinary powers is for the protection of the public. The law is intended primarily to keep the contracting business clean and wholesome, to the end that it may merit the respect and confidence of the public in general and in particular those who have recourse to contractors in the construction or improvement of their properties. Therefore, the purpose of a disciplinary proceeding such as the one with which we are here concerned is to determine the fitness of a licensed contractor to continue in that capacity. It is not intended for the punishment of the individual contractor, but for the protection of the contracting business as well as the public by removing, in proper cases, either permanently or temporarily, from the conduct of a contractor's business a licensee whose method of doing business indicates a lack of integrity upon his part or a tendency to impose upon those who deal with him.

9. Thus, it is clear that the purpose of imposing discipline on a licensee is to protect the public. Agencies have great discretion in deciding what discipline is appropriate, but unless a particular discipline advances the purpose of protecting the public, it is not in keeping with the purpose of licensing programs.

10. In the present case there is no reason to conclude that a suspension would add to the protection of the public. There is to be a three-year stayed invalidation with appropriate conditions – along with the changes Mr. Petty has made and his sincere determination to prevent employee misconduct in the future. There is no reason to conclude that Mr. Petty fails to appreciate the seriousness of this matter. This is a case in which a suspension on top of an invalidation would serve only as a penalty. It would not add to the level of protection of the public.

11. The public will be well protected with a stayed invalidation of respondent's registration subject to appropriate conditions.

#### *COST RECOVERY*

12. By reason of the matters set forth in Finding 23, it is determined that, within the terms of Business and Professions Code section 125.3, the bureau's reasonable costs in this matter were \$1,137.

13. In *Zuckerman v. State Board of Chiropractic Examiners*,<sup>2</sup> a case in which the State Board of Chiropractic Examiners had disciplined a license, the Supreme Court of California dealt with the issue of cost recovery. The court held that "the Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that ... [cost recovery] does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing." The court established five rules that an agency must observe in assessing the amount to be charged. To some extent, these rules are similar to matters one would consider in determining whether costs are reasonable. The court's rules, however, go beyond considerations of whether the costs are reasonable. The court said:

[T]he Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor's "subjective good faith belief in the merits of his or her position" [Citation] and whether the chiropractor has raised a "colorable challenge" to the proposed discipline [Citation.] Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [Citation] the Board must determine that the chiropractor will be financially able to make later payments. Finally the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately

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<sup>2</sup> *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32.

large investigation and prosecution to prove that a chiropractor engaged in relatively innocuous misconduct.<sup>3</sup>

14. In this case, complainant prepared to prove that respondent's employee engaged in insurance fraud. Respondent, ultimately, did not contest the allegation of fraud, but that does not change the fact that complainant had been required to prepare.

15. Respondent had a legitimate interest in pursuing a hearing. He demonstrated that a suspension would serve no purpose other than to penalize him. *Zuckerman* requires that, in assessing costs, an agency must consider a licensee's "subjective good faith belief in the merits of his or her position" and must consider whether the licensee has raised a "colorable challenge" to the proposed discipline. In this case, respondent substantially challenged the proposed discipline. However, respondent stipulated that he did not contest "the cost recovery amount."

16. Respondent offered no evidence that assessing the costs of investigation and prosecution against him would unfairly penalize him.

17. It is determined that this was not a case in which the agency conducted a disproportionately large investigation and prosecution to prove relatively innocuous misconduct.

18. Respondent offered no evidence that he would be unable to pay the cost recovery.

19. That leaves one final matter to be considered. Will respondent be financially able to make payments to reimburse the agency for its costs? The bureau, as is required by *Zuckerman*, must determine whether a payment schedule is necessary so that respondent will be financially able to pay the costs.

## ORDER

I. Because there is no evidence that respondent engaged in repeated violations of the laws or regulations pertaining to an automotive repair dealer, the prayer to invalidate registrations other than registration number ARD 113077 is denied.

II. Automotive repair dealer registration number ARD 113077 is invalidated. The invalidation, however, is stayed for three years, and a probationary registration shall be issued on the following conditions.

1. Respondent shall immediately dismiss Patrick McDonough.

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<sup>3</sup> *Id.* at p. 45.

2. Respondent shall comply with all statutes, regulations, and rules governing automotive inspections, estimates, and repairs – including statutes, regulations, and rules requiring payment of fees to the bureau.

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

4. Respondent shall provide bureau representatives unrestricted access to inspect all vehicles, including parts, undergoing repairs up to and including the point of completion.

5. Within 60 days of the effective date of this decision, respondent shall attend and successfully complete a bureau certified training course applicable to the class of license held by respondent. Also within 60 days of the effective date of this decision respondent shall submit proof of completion of the course to the bureau.

6. If an accusation is filed against respondent during the period of probation, the Director of the Department of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

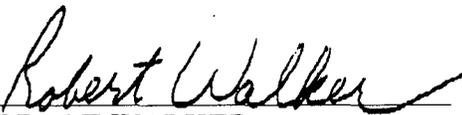
7. If the director determines that respondent has failed to comply with a condition of probation, the department may, after giving notice and an opportunity to be heard, permanently revoke respondent's registration.

8. Respondent shall not employ Patrick McDonough in any business that requires licensure or registration by the bureau. He shall not employ him in any such business in any capacity, either for or without compensation.

9. Respondent shall pay the bureau's costs of \$1,137. The bureau will determine whether a payment schedule is necessary so that respondent will be financially able to pay the costs.

10. If respondent complies with all of the conditions of probation for the full term of probation, he will be issued an unrestricted registration.

DATED: August 9, 2010

  
ROBERT WALKER  
Administrative Law Judge  
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 77106-27

12 **LAWRENCE & PETTY, INC., DBA**  
13 **BLACKSTONE TIRE & SERVICE**  
4764 North Blackstone  
14 Fresno, CA 93726-0104  
15 **RICK L. PETTY, PRESIDENT**

**A C C U S A T I O N**

16 Automotive Repair Dealer  
Registration No. ARD 113077

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On or about October 3, 1984, the Bureau issued Automotive Repair Dealer  
26 Registration Number ARD 113077 to Lawrence & Petty, Inc., doing business as Blackstone Tire  
27 & Service ("Respondent"), with Rick L. Petty as president. The license was delinquent from  
28 October 31, 1989, to December 14, 1989. On or about September 14, 2001, Stephen W.

1 Lawrence became president, and on October 31, 2001, Rick L. Petty resumed as president. The  
2 license will expire on October 31, 2009, unless renewed.

3 **STATUTORY PROVISIONS**

4 3. Business and Professions Code ("Code") section 9884.7 states, in  
5 pertinent part:

6 (a) The director, where the automotive repair dealer cannot show there  
7 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
8 permanently, the registration of an automotive repair dealer for any of the  
9 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.

10 (1) Making or authorizing in any manner or by any means whatever  
11 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.

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

16 5. Code section 477 provides, in pertinent part, that "Board" includes  
17 "bureau," "commission," "committee," "department," "division," "examining committee,"  
18 "program," and "agency." "License" includes certificate, registration or other means to engage  
19 in a business or profession regulated by the Code.

20 **COST RECOVERY**

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

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1 employed by Respondent, McDonough assisted, conspired with another to and prepared and  
2 caused to be presented to an insurer and an insurance claimant in connection with, and in support  
3 of and opposition to, a claim and payment and other benefit pursuant to an insurance policy,  
4 knowing that the statement contained false and misleading information concerning a material  
5 fact, as more particularly set forth in paragraphs 7 and 8, above.

6 **OTHER MATTERS**

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

12 **PRAYER**

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

15 1. Temporarily or permanently invalidating Automotive Repair Dealer  
16 Registration Number ARD 113077 issued to Lawrence & Petty, Inc., doing business as  
17 Blackstone Tire & Service;

18 2. Temporarily or permanently invalidating any other automotive repair  
19 dealer registration issued to Lawrence & Petty, Inc., doing business as Blackstone Tire &  
20 Service;

21 3. Ordering Respondent Lawrence & Petty, Inc., doing business as  
22 Blackstone Tire & Service, to pay the Director of Consumer Affairs the reasonable costs of the  
23 investigation and enforcement of this case, pursuant to Code section 125.3; and,

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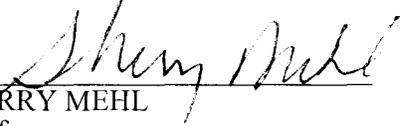
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4. Taking such other and further action as deemed necessary and proper.

DATED: 2/19/08

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

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