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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. 79/15-73

**O'JAYLAND DEWAYNE BROWN
DBA OFFICIAL SMOG
6613 Fair Oaks Boulevard
Carmichael, CA 95608**

**DEFAULT DECISION AND
ORDER**

**Automotive Repair Dealer Registration
No. ARD 248896**

[Gov. Code, §11520]

**Smog Check Test Only Station License
No. TC 248896**

Respondent.

FINDINGS OF FACT

1. On or about November 7, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Petition to Revoke Probation No. 79/15-73 against O'Jayland Dewayne Brown ("Respondent") before the Director of the Department of Consumer Affairs ("Director"). (A true and correct copy of the Petition to Revoke Probation is attached hereto, marked Exhibit A, and incorporated herein by reference.)

1 2. On or about February 9, 2007, the Bureau of Automotive Repair ("Bureau") issued
2 Automotive Repair Dealer Registration Number, ARD 248896 to Respondent. The Automotive
3 Repair Dealer Registration expired on January 31, 2014, and has not been renewed.

4 3. On or about February 16, 2007, the Bureau issued Smog Check Test Only Station
5 License Number TC 248896 to Respondent. The Smog Check Test Only Station License expired
6 on January 31, 2014, and has not been renewed.

7 4. On or about November 19, 2014, Respondent was served by Certified and First Class
8 Mail copies of the Petition to Revoke Probation No. 79/15-73, Statement to Respondent, Notice
9 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
10 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
11 Professions Code section 136, is required to be reported and maintained with the Bureau.
12 Respondent's address of record was and is: O'Jayland Dewayne Brown, doing business as
13 Official Smog, 6613 Fair Oaks Boulevard, Carmichael, CA 95608.

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

17 6. None of the aforementioned documents were returned by the U.S. Postal Service.

18 7. Government Code section 11506 states, in pertinent part:

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

24 8. Respondent failed to file a Notice of Defense within fifteen (15) days after service
25 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the
26 merits of Petition to Revoke Probation No. 79/15-73.

27 9. California Government Code section 11520 states, in pertinent part:

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

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration Number ARD 248896 and Smog Check Test Only Station License Number TC-248896 heretofore issued to Respondent O'Jayland Dewayne Brown, are REVOKED.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 29, 2015.

It is so ORDERED October 12, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attachment:

Exhibit A: Petition to Revoke Probation

Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
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1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke Probation
Against:

12 **O'JAYLAND DEWAYNE BROWN,**
13 **DBA OFFICIAL SMOG**
14 **6613 Fair Oaks Boulevard**
Carmichael, CA 95608

15 **Automotive Repair Dealer Registration No.**
ARD 248896
16 **Smog Check Test Only Station License No.**
TC 248896

17 Respondent.

Case No. 79/15-73

PETITION TO REVOKE PROBATION
(SMOG CHECK)

18
19
20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On or about February 9, 2007, the Bureau issued Automotive Repair Dealer
26 Registration Number ARD 248896 ("registration") to O'Jayland Dewayne Brown
27 ("Respondent"), doing business as Official Smog. The registration expired on January 31, 2014,
28 and has not been renewed.

1 **PETITION**

2 5. At all times after the effective date of Respondent's probation, Condition 8 stated:

3 Should the Director of Consumer Affairs determine that Respondent has failed
4 to comply with the terms and conditions of probation, the Department may, after
5 giving notice and opportunity to be heard suspend or revoke the license and
6 registration.

7 6. Respondent's probation is subject to revocation, in that he violated probation as set
8 forth below:

9 **CAUSE TO REVOKE PROBATION**

10 **(Cost Recovery)**

11 7. At all times after the effective date of Respondent's probation, Condition 10 stated:

12 Payment to the Bureau of \$2,500 for cost recovery shall be received no
13 later than twelve (12) months before probation terminates, payable in twenty-four
14 (24) equal installments. Failure to complete payment of cost recovery within this
15 time frame shall constitute a violation of probation which may subject Respondent's
16 license and registration to outright revocation; however, the Director or the Director's
17 Bureau of Automotive Repair designee may elect to continue probation until such
18 time as reimbursement of the entire cost recovery amount has been made to the
19 Bureau.

20 8. Respondent's probation is subject to revocation by failing to comply with Condition
21 10, in that Respondent failed to pay the Bureau a total of \$2,500 for cost recovery no later than
22 twelve (12) months before probation terminated. Probation is set to terminate on or about
23 September 28, 2015, therefore, Respondent was required to pay the \$2,500 cost recovery no later
24 than September 28, 2014.

25 **PRAYER**

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

28 1. Revoking the probation that was granted by the Bureau in Case No. 79/12-47,
imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer
Registration Number 248896 and Smog Check Test Only Station License Number TC 248896,
issued to O'Jayland Dewayne Brown, doing business as Official Smog; and,

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

DATED: November 7, 2014



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

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