

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

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

Case No. 79/16-18

13 **KSE ENTERPRISES, INC., DBA**
14 **AMERICAN AUTO CARE TIRES & SMOG,**
15 **KURT WILLIAM ECCLEFIELD, Pres/Treas,**
16 **SHAWNA JEANNE ECCLEFIELD, Secretary**
26440 Jefferson Ave. #D
Murrieta, CA 92562

PETITION TO REVOKE PROBATION
(SMOG CHECK)

17 Automotive Repair Dealer Registration No. ARD
257989
18 Smog Check Station License No. RC 257989

19 Respondents.

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21 Complainant alleges:

22 **PARTIES**

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

26 2. On May 1, 2009, the Bureau of Automotive Repair issued Automotive Repair
27 Dealer Registration Number ARD 257989 to KSE Enterprises, Inc., doing business as American
28 Auto Care Tires & Smog, with Kurt William Ecclefield, as President and Treasurer, and Shawna

1 Jeanne Ecclefield, as Secretary (Respondent). The Automotive Repair Dealer Registration
2 expired on April 30, 2015, and has not been renewed.

3 3. On May 19, 2009, the Bureau of Automotive Repair issued Smog Check Station
4 License Number RC 257989 to Respondent. The Smog Check Station License expired on April
5 30, 2015, and has not been renewed.

6 PRIOR DISCIPLINARY ACTION

7 4. In a disciplinary action entitled "In the Matter of the Accusation Against KSE
8 Enterprises Inc., dba American Auto Care Tires & Smog, Kurt William Ecclefield, Pres/CFO,
9 Shawna Jeanne Ecclefield, Secty," Case No. 79/12-93, the Director of Consumer Affairs
10 (Director), adopted a decision, effective December 26, 2012, in which Respondent's Automotive
11 Repair Dealer Registration No. ARD 257989 and Smog Check Station License No. RC 257989
12 were revoked. However, the revocation was stayed and Respondent's Automotive Repair Dealer
13 Registration and Smog Check Station License were placed on probation for a period of three
14 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
15 incorporated by reference.

16 JURISDICTION

17 5. This Petition to Revoke Probation is brought before the Director under the
18 authority of the following laws. All section references are to the Business and Professions Code
19 (Code) unless otherwise indicated.

20 6. Code section 118, subdivision (b) states:

21 The suspension, expiration, or forfeiture by operation of law of a license
22 issued by a board in the department, or its suspension, forfeiture, or cancellation
23 by order of the board or by order of a court of law, or its surrender without the
24 written consent of the board, shall not, during any period in which it may be
25 renewed, restored, reissued, or reinstated, deprive the board of its authority to
institute or continue a disciplinary proceeding against the licensee upon any
ground provided by law or to enter an order suspending or revoking the license or
otherwise taking disciplinary action against the licensee on any such ground.

26 7. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
27 registration shall not deprive the Director of the Department Consumer Affairs (Director)

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1 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
2 render a decision temporarily or permanently invalidating, suspending, or revoking a registration.

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

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

10 10. This Petition to Revoke Probation is brought under Condition 9 of the
11 Disciplinary Order that adopted the decision in Case No. 79/12-93, referenced in paragraph 4,
12 above, which states:

13 **Violation of Probation.**

14 Should the Director of Consumer Affairs determine that Respondent has
15 failed to comply with the terms and conditions of probation, the Department may,
16 after giving notice and opportunity to be heard, temporarily or permanently
invalidate the license and registrations issued to Respondent.

17 **CAUSE TO REVOKE PROBATION**

18 **(Failure to Pay Costs)**

19 11. At all times after the effective date of Respondent's probation, Probation Term 10
20 stated:

21 **Cost Recovery.**

22 Payment to the Bureau of the full amount of \$1,580.00 shall be received
23 no later than 12 months before probation terminates. Respondent may pay costs in
24 equal monthly installments. Failure to complete payment of cost recovery
25 within this time frame shall constitute a violation of probation which may subject
26 Respondent's registration and license to outright revocation; however, the
Director or the Director's Bureau of Automotive Repair designee may elect to
continue probation until such time as reimbursement of the entire cost recovery
amount has been made to the Bureau.

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