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

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

Case No. *79/16-55*

13 **COLEMAN AUTOMOTIVE & SMOG**  
14 **CHECK**

**PETITION TO REVOKE PROBATION**

14 **660 Coleman Avenue #5**  
15 **San Jose, CA 95110**

15 **TOM HOA PHAM, OWNER**

16 **Automotive Repair Dealer Registration**  
17 **No. ARD 253298**

17 **Smog Check Station License No. RC 253298**

18 **Respondent.**

20 Complainant alleges:

21 **PARTIES**

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

25 **Automotive Repair Dealer Registration**

26 2. On or about January 15, 2008, the BAR issued Automotive Repair Dealer  
27 Registration License No. ARD 253298 to Tom Hoa Pham doing business as Coleman  
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1 Automotive & Smog Check (Respondent). The registration expired on December 31, 2014, and  
2 has not been renewed.

3 **Smog Check Station License**

4 3. On or about March 12, 2009, the BAR issued Smog Check Station License No. RC  
5 253298 to Respondent. The station license expired on December 31, 2014, and has not been  
6 renewed.

7 **JURISDICTION**

8 4. This Petition to Revoke Probation is brought before the Bureau of Automotive Repair  
9 (Bureau), Department of Consumer Affairs, under the authority of the following laws. All section  
10 references are to the Business and Professions Code unless otherwise indicated.

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

15 7. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
16 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
17 the Motor Vehicle Inspection Program.

18 8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
19 expiration or suspension of a license by operation of law, or by order or decision of the Director  
20 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
21 the Director of jurisdiction to proceed with disciplinary action.

22 **FACTUAL BACKGROUND**

23 5. In a disciplinary action entitled *In the Matter of the First Amended Accusation*  
24 *Against Tom Hoa Pham, Doing Business As Coleman Automotive & Smog Check*, Case No.  
25 79/13-42, the Bureau of Automotive Repair issued a decision effective February 13, 2014, in  
26 which Respondent Tom Hoa Pham's, doing business as Coleman Automotive & Smog Check,  
27 Automotive Repair Dealer Registration Number ARD 253298 and Smog Check Station License  
28 Number RC 253298 were revoked. However, the revocations were stayed and the registration

1 and license were placed on probation for a period of three (3) years with certain terms and  
2 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

3 **PETITION TO REVOKE PROBATION AS TOM HOA PHAM DOING BUSINESS AS**  
4 **COLEMAN AUTOMOTIVE & SMOG CHECK**

5 6. Grounds exist for revoking the probation and reimposing the order of revocation of  
6 the Automotive Repair Dealer Registration Number ARD 253298 and Smog Check Station  
7 License Number RC 253298 issued to Respondent. At all times after the effective date of  
8 Respondent's probation, Condition 8 of Stipulated Settlement and Disciplinary Order 79/13-41  
9 stated:

10 **"8. Violation of Probation.** Should the Director of Consumer Affairs determine  
11 that Respondent Coleman Automotive has failed to comply with the terms and  
12 conditions of probation, the Department may, after giving notice and opportunity  
13 to be heard temporarily or permanently invalidate the registration and suspend or  
14 revoke the license.

15 7. Respondent has violated the Probation Program, as more particularly set forth in the  
16 following paragraphs:

17 **FIRST CAUSE TO REVOKE PROBATION**  
18 **(Obey all Laws)**

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

20 **"2. Obey All Laws. Comply with all statutes, regulations, and rules  
21 governing automotive inspections, estimates, and repairs.**

22 9. Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition 2 by not fulfilling a condition of the Board's Probation Program, the  
24 circumstances of which are set forth below.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Petition to Revoke Probation, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/13-42 and imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer Registration No. ARD 253298 issued to Tom Hoa Pham doing business as Coleman Automotive & Smog Check;
2. Revoking or suspending Smog Check Station License No. RC 253298 issued to Tom Hoa Pham doing business as Coleman Automotive & Smog Check;
3. Taking such other and further action as deemed necessary and proper.

DATED: February 1, 2016

*Patrick Dorais*

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

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