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7

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

12 In the Matter of the Accusation Against:

Case No. 77/11-91

13 **P & I AUTO BODY & REPAIR**
14 **PHILIP BYUNGCHAN LEE, Partner**
15 **IN SIK YI, Partner**
16 **3009 Foothill Blvd.**
17 **Oakland, CA 94601**
18 **Automotive Repair Dealer Registration No.**
19 **ARD 157293**

ACCUSATION

Respondents.

20 Sherry Mehl ("Complainant") alleges:

21 **PARTIES**

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

24 2. In 1990 the Bureau issued Automotive Repair Dealer Registration Number ARD
25 157293 to P & I Auto Body & Repair ("Respondent") with Philip Byungchan Lee and In Sik Yi
26 as Partners. The registration expired on November 30, 2010, and has not been renewed.

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1 "I acknowledge notice and oral approval of an increase in the original
2 estimated price.

3 _____
4 (signature or initials)"

5 Nothing in this section shall be construed as requiring an automotive repair
6 dealer to give a written estimated price if the dealer does not agree to perform the
7 requested repair.

8 5. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
9 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
10 against an automotive repair dealer or to render a decision invalidating a registration temporarily
11 or permanently.

12 COST RECOVERY

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

17 CONSUMER COMPLAINT – 2003 ACURA NSX-T

18 7. On or about December 12, 2009, Ho Joon Choi ("consumer") took his 2003
19 Acura NSX-T to Respondent's facility for repairs following a collision. On or about
20 December 16, 2009, the consumer's insurance company, Mid-Century Insurance Company
21 ("Mid-Century"), inspected the vehicle and estimated the damages at \$15,563.49 (Estimate of
22 Record, Claim #1015167166-1-1). The consumer agreed to have Respondent repair the vehicle.
23 Shortly after retrieving the vehicle from Respondent's facility, the consumer began to notice
24 problems with the repairs performed by Respondent.

25 8. On or about October 4, 2010, the Bureau received a Complaint from the consumer.

26 9. On or about October 26, 2010, and January 7, 2011, a Bureau representative
27 inspected the vehicle using Mid-Century's Estimate of Record, Claim #1015167166-1-1, dated
28 December 16, 2009, as a reference. The Bureau representative found that Respondent failed to
replace the left rear quarter panel and rear bumper cover, repairs totaling \$3,947.66.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 10. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
4 in that on or about December 16, 2009, it made statements which it knew or which by exercise of
5 reasonable care, should have known were untrue or misleading, in that Respondent represented to
6 the consumer and Mid-Century that the vehicle had been repaired pursuant to Mid-Century's
7 Estimate of Record, Claim #1015167166-1-1, dated December 16, 2009, when, in fact,
8 Respondent failed to replace the left rear quarter panel and rear bumper cover.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 11. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
12 in that on or about December 16, 2009, Respondent committed acts which constitute fraud by
13 receiving payment for parts, labor, and/or repairs that had not been supplied or performed, in that
14 Respondent received \$3,947.66 from Mid-Century for replacing the left rear quarter panel and
15 rear bumper cover when, in fact, Respondent failed to perform those repairs.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with the Code)**

18 12. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
19 in that on or about December 16, 2009, Respondent failed to comply with Code section 9884.9(a),
20 in that it failed to obtain the consumer's authorization to change the method of repairs by failing
21 to replace the left rear quarter panel and rear bumper cover, as set forth in Mid-Century's Estimate
22 of Record, Claim #1015167166-1-1, dated December 16, 2009.

23 **OTHER MATTERS**

24 13. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
25 probation the registrations for all places of business operated in this state by P & I Auto Body &
26 Repair, upon a finding that it has, or is, engaged in a course of repeated and willful violation of
27 the laws and regulations pertaining to an automotive repair dealer.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 157293, issued to P & I Auto Body & Repair;
2. Revoking or suspending any other automotive repair dealer registration issued to P & I Auto Body & Repair;
3. Ordering P & I Auto Body & Repair to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/29/11

Sherry Mehl by *[Signature]*
SHERRY MEHL *Assist. Chief*
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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