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

In the Matter of the Accusation Against:
**P & I AUTO BODY & REPAIR
PHILIP BYUNGCHAN LEE, Partner
IN SIK YI, Partner
3009 Foothill Blvd.
Oakland, CA 94601
Automotive Repair Dealer Registration No.
ARD 157293**

Case No. 77/11-41

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about December 29, 2011, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/11-41 against P&I Auto Body & Repair (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)
2. In 1990, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 157293 to Respondent. The Automotive Repair Dealer Registration expired on November 30, 2010, and has not been renewed.
3. On or about January 18, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 77/11-41, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

1 Code section 136, is required to be reported and maintained with the Bureau, which was and is:
2 3009 Foothill Blvd.
3 Oakland, CA 94601.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. On or about January 20, 2012 the U.S. Postal Service returned the Domestic Return
8 Receipts indicating that Philip Byungchan Lee and In Sik Yi both received the Accusation and
9 accompanying documents on January 19, 2012.

10 6. Government Code section 11506 states, in pertinent part:

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon them
17 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
18 77/11-41.

19 8. California Government Code section 11520 states, in pertinent part:

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

24 9. Pursuant to its authority under Government Code section 11520, the Director after
25 having reviewed the proof of service dated January 18, 2012, signed by Nancy Quach, and
26 Domestic Return Receipts, finds Respondent is in default. The Director will take action without
27 further hearing and, based on Accusation, No. 77/11-41, proof of service and on the Affidavit of
28 Bureau Representative Phillip Rice, finds that the allegations in Accusation are true.

10. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$9,351.11 as of February 8, 2012.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent P & I Auto Body & Repair has
3 subjected its Automotive Repair Dealer Registration No. ARD 157293 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
6 Repair Dealer Registration based upon the following violations alleged in the Accusation which
7 are supported by the evidence contained in the affidavit of Bureau Representative Phillip Rice in
8 this case.:

- 9 a. Business and Professions Code section 9884.7(a)(1) (untrue/misleading statements);
10 b. Business and Professions Code section 9884.7(a)(4) (fraud); and
11 c. Business and Professions Code section 9884.7(a)(6) (failure to comply with code).

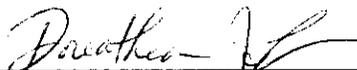
12 ORDER

13 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 157293,
14 heretofore issued to Respondent P & I Auto Body & Repair is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
16 written motion requesting that the Decision be vacated and stating the grounds relied on within
17 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
18 Bureau of Automotive Repair, ATTN: Tim Corcoran, 10235 Systems Parkway, Sacramento, CA
19 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of
20 good cause, as defined in the statute.

21 This Decision shall become effective on April 20, 2012.

22 It is so ORDERED March 13, 2012

23
24 
25 _____
26 DOREATHEA JOHNSON
27 Deputy Director, Legal Affairs
28 Department of Consumer Affairs

27 default decision_LIC.rtf
28 DOJ Matter ID:SF2011202066
Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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6 Facsimile: (415) 703-5480
Attorneys for Complainant

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:

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**

20 Respondents.

Case No. 77/11-91

ACCUSATION

21 Sherry Mehl ("Complainant") alleges:

22 **PARTIES**

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

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

27 ///

28 ///

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 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD
5 157293, issued to P & I Auto Body & Repair;

6 2. Revoking or suspending any other automotive repair dealer registration issued to
7 P & I Auto Body & Repair;

8 3. Ordering P & I Auto Body & Repair to pay the Bureau of Automotive Repair the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
10 125.3; and,

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

12 DATED: 12/29/11

13 Sherry Mehl by [Signature]
14 SHERRY MEHL Assist. Chief
15 Chief
16 Bureau of Automotive Repair
17 Department of Consumer Affairs
18 State of California
19 Complainant

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