

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PATRICK M. KENADY, State Bar No. 50882
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5377
Facsimile: (916) 327-8643

6 Attorneys for Complainant
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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 Accusation Against:

Case No. 77/06-115

12 **F. RADICH MOTORS, INC.,**
13 **DOING BUSINESS AS**
14 **ELK GROVE HONDA**
8550 Laguna Grove Boulevard
Elk Grove, California 95758

ACCUSATION

15 Automotive Repair Dealer Registration
No. AE 058496
16 Smog Check Station License No. RE 058496

17 Respondent.
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19 Sherry Mehl ("Complainant") alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On or about May 10, 1977, the Bureau issued Automotive Repair Dealer
25 Registration Number AE 058496 ("registration") to F. Radich Motors, Inc., doing business as
26 Elk Grove Honda ("Respondent"). The registration was in full force and effect at all times
27 relevant to the charges brought herein and will expire on May 31, 2007, unless renewed.

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1 **Smog Check Station License**

2 3. On or about April 11, 1984, the Bureau issued Smog Check Station
3 License Number RE 058496 ("station license") to Respondent. The station license was in full
4 force and effect at all times relevant to the charges brought herein and will expire on May 31,
5 2007, unless renewed.

6 **STATUTORY PROVISIONS**

7 4. Section 9884.7 of the Business and Professions Code ("Code") states, in
8 pertinent part:

9 (a) The director, where the automotive repair dealer cannot show there was
10 a bona fide error, may refuse to validate, or may invalidate temporarily or
11 permanently, the registration of an automotive repair dealer for any of the
12 following acts or omissions related to the conduct of the business of the
automotive repair dealer, which are done by the automotive repair dealer or any
automotive technician, employee, partner, officer, or member of the automotive
repair dealer.

13 (1) Making or authorizing in any manner or by any means whatever any
14 statement written or oral which is untrue or misleading, and which is known, or
15 which by the exercise of reasonable care should be known, to be untrue or
16 misleading.

16 (4) Any other conduct which constitutes fraud.

17 (5) Conduct constituting gross negligence.

18 (6) Failure in any material respect to comply with the provisions of this
19 chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or
regulations adopted pursuant to it.

20 (7) Any willful departure from or disregard of accepted trade standards for
21 good and workmanlike repair in any material respect, which is prejudicial to
another without consent of the owner or his or her duly authorized representative.

22 (9) Having repair work done by someone other than the dealer or his or her
23 employees without the knowledge or consent of the customer unless the dealer
can demonstrate that the customer could not reasonably have been notified.

24 (b) Except as provided for in subdivision (c), if an automotive repair
25 dealer operates more than one place of business in this state, the director pursuant
26 to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
27 or permanently the registration of the specific place of business which has
violated any of the provisions of this chapter. This violation, or action by the
director, shall not affect in any manner the right of the automotive repair dealer to
operate his or her other places of business.

28 (c) Notwithstanding subdivision (b), the director may refuse to validate, or
may invalidate temporarily or permanently, the registration for all places of

1 business operated in this state by an automotive repair dealer upon a finding that
2 the automotive repair dealer has, or is, engaged in a course of repeated and willful
violations of this chapter, or regulations adopted pursuant to it."

3 5. Code section 9884.8 states:

4 All work done by an automotive repair dealer, including all warranty
5 work, shall be recorded on an invoice and shall describe all service work done and
6 parts supplied. Service work and parts shall be listed separately on the invoice,
7 which shall also state separately the subtotal prices for service work and for parts,
8 not including sales tax, and shall state separately the sales tax, if any, applicable to
9 each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall
10 clearly state that fact. If a part of a component system is composed of new and
11 used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The
12 invoice shall include a statement indicating whether any crash parts are original
13 equipment manufacturer crash parts or nonoriginal equipment manufacturer
14 aftermarket crash parts. One copy of the invoice shall be given to the customer
15 and one copy shall be retained by the automotive repair dealer.

16 6. Section 9884.9 of the Code states, in pertinent part:

17 (a) The automotive repair dealer shall give to the customer a written
18 estimated price for labor and parts necessary for a specific job. No work shall be
19 done and no charges shall accrue before authorization to proceed is obtained from
20 the customer. No charge shall be made for work done or parts supplied in excess
21 of the estimated price without the oral or written consent of the customer that
22 shall be obtained at some time after it is determined that the estimated price is
23 insufficient and before the work not estimated is done or the parts not estimated
24 are supplied. Written consent or authorization for an increase in the original
25 estimated price may be provided by electronic mail or facsimile transmission from
26 the customer. The bureau may specify in regulation the procedures to be followed
27 by an automotive repair dealer if an authorization or consent for an increase in the
28 original estimated price is provided by electronic mail or facsimile transmission.
If that consent is oral, the dealer shall make a notation on the work order of the
date, time, name of person authorizing the additional repairs and telephone
number called, if any, together with a specification of the additional parts and
labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or
initials to an acknowledgment of notice and consent, if there is an oral consent of
the customer to additional repairs, in the following language:

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

(signature or initials)"

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

1 **COST RECOVERY**

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

6 **CONSUMER COMPLAINT - (DULLANTY) 1988 HONDA ACCORD**

7 14. On or about December 17, 2004, the Bureau received a Consumer
8 Complaint from Mary Dullanty ("consumer") regarding air conditioning repairs performed by
9 Respondent on her 1988 Honda Accord in or about July 2004. Respondent failed to properly
10 document Invoice No. 435909 to show the consumer's authorization for an evaporator core.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Code)**

13 15. Respondent's registration is subject to discipline under Code section
14 9884.7, subdivision (a)(6), in that on or about July 28, 2004, it failed to comply with Code
15 section 9884.9, subdivision (a), by failing to document Invoice No. 435909 to show the
16 consumer's authorization for an evaporator core.

17 **VEHICLE INSPECTION NO. 1 - (CHEUNG) 2001 HONDA ODYSSEY**

18 16. On or about December 3, 2004, Betty Cheung ("consumer") had her 2001
19 Honda Odyssey taken to Respondent's facility for repair following a collision. Respondent was
20 to repair the vehicle pursuant to the estimate prepared by Le Appraisal Services, dated
21 December 7, 2004. California State Automobile Association ("CSAA") paid Respondent
22 \$6,177.98 for the repairs.

23 17. On or about February 24, 2005, the Bureau conducted a post repair
24 inspection of the consumer's vehicle. The inspection revealed that Respondent failed to perform
25 the following services or repairs:

26 a. Respondent failed to restore corrosion protection to the right front apron
27 panel.

28 b. Respondent failed to mask the vehicle to protect it from overspray.

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SECOND CAUSE FOR DISCIPLINE

(Misleading Statements)

18. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(1), in that on or about December 7, 2004, it made statements which it knew or which by exercise of reasonable care it should have known to be untrue or misleading when it represented to CSAA and the consumer that the vehicle had been repaired pursuant to the estimate prepared by Le Appraisal Services, dated December 7, 2004. In fact, Respondent failed to perform services or repairs, as more particularly set forth in paragraph 17, subparagraphs a and b, above.

THIRD CAUSE FOR DISCIPLINE

(Departure from Trade Standards - Failure to Comply with Regulations)

19. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(7), in that on or about December 7, 2004, Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair by failing to comply with California Code of Regulations, title 16, section 3365, subdivision (b). Respondent failed to restore corrosion protection after replacing the right front apron on the consumer's vehicle and to mask the vehicle to protect it from overspray.

VEHICLE INSPECTION NO. 2 - (HOFFMAN) 2001 HONDA ACCORD LX

20. On or about November 12, 2004, Ruby Hoffman ("consumer") had her 2001 Honda Accord LX taken to Respondent's facility for repair following a collision. Respondent was to repair the vehicle pursuant to its estimate dated December 8, 2004. California State Automobile Association ("CSAA") paid Respondent \$8,311.10 for the repairs.

21. On or about February 24, 2005, the Bureau conducted a post repair inspection of the consumer's vehicle. The inspection revealed that Respondent failed to perform the following services or repairs:

- a. Respondent failed to refinish the right sidemember.
- b. Respondent failed to refinish the left sidemember.

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1 c. Respondent charged for paint materials for the above-referenced services,
2 which had not been performed.

3 d. Respondent failed to repair the right fender.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Misleading Statements)**

6 22. Respondent's registration is subject to discipline under Code section
7 9884.7, subdivision (a)(1), in that on or about December 8, 2004, it made statements which it
8 knew or which by exercise of reasonable care it should have known to be untrue or misleading
9 when it represented to CSAA and the consumer that the vehicle had been repaired pursuant to the
10 estimate it prepared, dated December 8, 2004. In fact, Respondent failed to perform services or
11 repairs, as more particularly set forth in paragraph 21, subparagraphs a through d, above.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 23. Respondent's registration is subject to discipline under Code section
15 9884.7, subdivision (a)(4), in that on or about December 8, 2004, it committed fraud when it
16 accepted payment from CSAA for services it failed to perform or materials it failed to provide, as
17 more particularly set forth in paragraph 21, subparagraphs a through c, above.

18 **VEHICLE INSPECTION NO. 3 - (HILL) 2003 HONDA S2000**

19 24. On or about October 24, 2004, David Hill ("consumer") had his 2003
20 Honda S2000 taken to Respondent's facility for repair following a collision. Respondent was to
21 repair the vehicle pursuant to the estimate prepared by Gibsons Appraisals, dated October 24,
22 2004, on behalf of California State Automobile Association ("CSAA"). CSAA paid Respondent
23 \$14,928.75 for the repairs.

24 25. On or about March 9, 2005, the Bureau conducted a post repair inspection
25 of the consumer's vehicle. The inspection revealed that Respondent failed to perform the
26 following services or repairs:

27 a. Respondent failed to replace the left inner panel.

28 b. Respondent failed to refinish the left inner panel.

- c. Respondent failed to replace the left extension.
- d. Respondent failed to refinish the left extension.
- e. Respondent failed to restore corrosion protection to the left quarter panel.

SIXTH CAUSE FOR DISCIPLINE

(Misleading Statements)

26. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(1), in that on or about October 24, 2004, it made statements which it knew or which by exercise of reasonable care it should have known to be untrue or misleading when it represented to CSAA and the consumer that the vehicle had been repaired pursuant to the estimate prepared by Gibsons Appraisals, dated October 24, 2004. In fact, Respondent failed to perform services or repairs, as more particularly set forth in paragraph 25, subparagraphs a through e, above.

SEVENTH CAUSE FOR DISCIPLINE

(Fraud)

27. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(4), in that on or about October 24, 2004, it committed fraud when it accepted payment from CSAA for services it failed to perform, as more particularly set forth in paragraph 25, subparagraphs a through d, above.

EIGHTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards - Failure to Comply with Regulations)

28. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(7), in that on or about October 24, 2004, Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair by failing to comply with California Code of Regulations, title 16, section 3365, subdivision (b). Respondent failed to restore corrosion protection to the left quarter panel on the consumer's vehicle.

VEHICLE INSPECTION NO. 4 - (DICH) 2003 HONDA CRV EX

29. On or about May 18, 2004, Kimberly Dich ("consumer") had her 2003 Honda CRV EX taken to Respondent's facility for repair following a collision. Respondent was

1 to repair the vehicle pursuant to its final estimate dated July 23, 2004. California State
2 Automobile Association paid Respondent \$9,576.28 for the repairs.

3 30. On or about February 24, 2005, the Bureau conducted a post repair
4 inspection of the consumer's vehicle. The inspection revealed that Respondent failed to perform
5 the following services or repairs:

6 a. Respondent failed to replace the rear body floor pan in its entirety.
7 Instead, the part was sectioned.

8 b. Respondent failed to refinish the rear body floor pan.

9 c. Respondent charged for paint materials for the above-referenced service
10 that had not been performed.

11 d. Respondent failed to restore corrosion protection to the bare welds at the
12 backside of where the right and left quarter rear corner pillar were welded, near the roof line.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Misleading Statements)**

15 31. Respondent's registration is subject to discipline under Code section
16 9884.7, subdivision (a)(1), in that on or about May 18, 2004, it made statements which it knew or
17 which by exercise of reasonable care it should have known to be untrue or misleading when it
18 represented to CSAA and the consumer that the vehicle had been repaired pursuant to its final
19 estimate dated July 23, 2004. In fact, Respondent failed to perform services or provide materials,
20 as more particularly set forth in paragraph 30, subparagraphs a through d, above.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 32. Respondent's registration is subject to discipline under Code section
24 9884.7, subdivision (a)(4), in that on or about May 18, 2004, it committed fraud when it accepted
25 payment from CSAA for services it failed to perform or materials it failed to provide, as more
26 particularly set forth in paragraph 30, subparagraphs a through c, above.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 37. Respondent's registration is subject to discipline under Code section
4 9884.7, subdivision (a)(4), in that in or about November 2004, it committed fraud when it
5 accepted payment from CSAA for services it failed to perform, as more particularly set forth in
6 paragraph 35, subparagraphs a and b, above.

7 **VEHICLE INSPECTION NO. 6 - (THAO) 2000 HONDA CIVIC**

8 38. On or about December 16, 2004, Gia Thao ("consumer") had her 2000
9 Honda Civic taken to Respondent's facility for repair following a collision. Respondent was to
10 repair the vehicle pursuant to the final estimate dated January 14, 2005, prepared by Le Appraisal
11 Services on behalf of California State Automobile Association ("CSAA"). CSAA paid
12 Respondent \$6,618.36 for the repairs.

13 39. On or about March 23, 2005, the Bureau conducted a post repair
14 inspection of the consumer's vehicle. The inspection revealed that Respondent failed to perform
15 the following services or repairs:

- 16 a. Respondent failed to refinish the upper tie bar.
17 b. Respondent failed to refinish the rear bumper reinforcement.
18 c. Respondent charged for paint materials for the above-referenced services
19 that had not been performed.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Misleading Statements)**

22 40. Respondent's registration is subject to discipline under Code section
23 9884.7, subdivision (a)(1), in that on or about December 16, 2004, it made statements which it
24 knew or which by exercise of reasonable care it should have known to be untrue or misleading
25 when it represented to CSAA and the consumer that the vehicle had been repaired pursuant to the
26 final estimate dated January 14, 2005, prepared by Le Appraisal Services. In fact, Respondent
27 failed to perform services or provide materials, as more particularly set forth in paragraph 39,
28 subparagraphs a through c, above.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 41. Respondent's registration is subject to discipline under Code section
4 9884.7, subdivision (a)(4), in that on or about December 16, 2004, it committed fraud when it
5 accepted payment from CSAA for services it failed to perform, as more particularly set forth in
6 paragraph 39, subparagraphs a through c, above.

7 **SIXTEENTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit)**

9 42. Respondent's smog station license is subject to discipline under Health &
10 Saf. Code section 44072.2, subdivision (d), in that it committed dishonest, fraudulent or deceitful
11 acts whereby another is injured, as more particularly set forth in paragraphs 23, 27, 32, 37, and
12 41, above.

13 **OTHER MATTERS**

14 43. Pursuant to Code section 9884.7, subdivision (c), the Director may
15 invalidate or refuse to validate, temporarily or permanently, the registrations for all places of
16 business operated in this state by F. Radich Motors, Inc., doing business as Elk Grove Honda,
17 upon a finding that said Respondent has, or is, engaged in a course of repeated and willful
18 violations of the laws and regulations pertaining to an automotive repair dealer.

19 44. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station
20 License Number RE 058496, issued to Respondent F. Radich Motors, Inc., doing business as Elk
21 Grove Honda, is revoked or suspended, any additional license issued under this chapter in the
22 name of said licensee may be likewise revoked or suspended by the director.

23 **PRAYER**

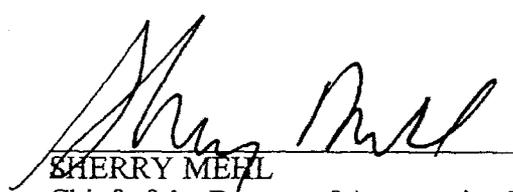
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

26 1. Temporarily or permanently invalidating Automotive Repair Dealer
27 Registration Number AE 058496, issued to F. Radich Motors, Inc., doing business as Elk Grove
28 Honda;

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2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to F. Radich Motors, Inc., doing business as Elk Grove Honda;
3. Revoking or suspending Smog Check Station License Number RE 058496, issued to F. Radich Motors, Inc., doing business as Elk Grove Honda;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of F. Radich Motors, Inc., doing business as Elk Grove Honda;
5. Ordering F. Radich Motors, Inc., 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,
6. Taking such other and further action as deemed necessary and proper.

DATED: 4-5-07


SHERRY MEHL
Chief of the Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant