

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 KEVIN J. RIGLEY  
Deputy Attorney General  
4 State Bar No. 131800  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-2558  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

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11 In the Matter of the Accusation Against:

Case No. 79/11-82

12 **LOS ANGELES SMOG CENTER**  
5552 W. Manchester Ave., Unit B  
13 Los Angeles, CA 90045  
**ESTHER PARK, AKA**  
14 **ESTHER HUEJUNG PARK, OWNER**  
Automotive Repair Dealer Registration  
15 No. ARD 261816  
Smog Check Test Only Station License  
16 No. TC 261816

**A C C U S A T I O N**  
**S M O G C H E C K**

17 and

18 **MARTIN CHEN**  
5336 Virginia Avenue  
19 Los Angeles, CA 90029  
Advanced Emission Specialist Technician  
20 License No. EA 631325

21 Respondents.

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23 Complainant alleges:

24 **PARTIES**

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

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1 This violation, or action by the director, shall not affect in any manner the right of the  
2 automotive repair dealer to operate his or her other places of business.

3 (c) Notwithstanding subdivision (b), the director may invalidate  
4 temporarily or permanently, the registration for all places of business operated in this  
5 state by an automotive repair dealer upon a finding that the automotive repair dealer  
6 has, or is, engaged in a course of repeated and willful violations of this chapter, or  
7 regulations adopted pursuant to it.

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

12 7. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
13 "commission," "committee," "department," "division," "examining committee," "program," and  
14 "agency." "License" includes certificate, registration or other means to engage in a business or  
15 profession regulated by the Code.

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

19 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

20 The director may suspend, revoke, or take other disciplinary action  
21 against a license as provided in this article if the licensee, or any partner, officer, or  
22 director thereof, does any of the following:

23 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
24 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted  
25 pursuant to it, which related to the licensed activities.

26 (c) Violates any of the regulations adopted by the director pursuant to  
27 this chapter.

28 (d) Commits any act involving dishonesty, fraud, or deceit whereby  
another is injured.

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

1 11. Section 44072.8 of the Health and Safety Code states:

2 When a license has been revoked or suspended following a hearing under  
3 this article, any additional license issued under this chapter in the name of the  
4 licensee may be likewise revoked or suspended by the director.

4 **COST RECOVERY**

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

9 **SURVEILLANCE OPERATION – OCTOBER 26, 2010**

10 13. On or about October 26, 2010, the Bureau performed a surveillance operation at  
11 Respondent Los Angeles Smog's facility. The surveillance operation and information obtained  
12 from the Bureau's Vehicle Information Database ("VID") revealed that between 0949 hours and  
13 1706 hours, Respondent Chen performed eleven (11) smog inspections that resulted in the  
14 issuance of electronic certificates of compliance for the vehicles set forth in Table I, below,  
15 certifying that he had tested and inspected those vehicles and that the vehicles were in compliance  
16 with applicable laws and regulations. In fact, Respondent Chen performed the smog inspections  
17 using the clean piping method<sup>1</sup> by using the tail pipe emissions of vehicles other than the  
18 vehicles being certified in order to issue the electronic certificates of compliance. The vehicles  
19 certified were not in the test bay at the time of the smog inspections.

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26 <sup>1</sup> "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of  
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in  
28 compliance or are not present in the smog check area during the time of the certification.

Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
10/26/2010 0949 hours to 1010 hours	1985 Chevrolet pickup C50, License Plate No. 2N43988	1998 Honda, License Plate No. 4GKR583	WP250431
10/26/2010 1019 hours to 1034 hours	2000 Honda Accord, License Plate No. 5URW785	2002 Pontiac, License Plate No. 6AIV928	WP250432
10/26/2010 1045 hours to 1104 hours	2000 Toyota Avalon, License Plate No. 4NDK092	2002 Mazda, License Plate No. 6LWH101	WP250433
10/26/2010 1110 hours to 1136 hours	2000 Chevrolet Camaro License Plate No. 6BUY868	2002 Pontiac, License Plate No. 6AIV928	WP250434
10/26/2010 1152 hours to 1210 hours	2004 Chevrolet Malibu, License Plate No. 5RIL275	2002 Pontiac, License Plate No. 6AIV928	WP250435
10/26/2010 1337 hours to 1400 hours	1996 Dodge Ram 2500, License Plate No. 7H15625	2002 Pontiac, License Plate No. 6AIV928	WP250436
10/26/2010 1417 hours to 1448 hours	1992 Honda Accord, License Plate No. 6BTC624	1989 Nissan, License Plate No. 4ZWF646	WP250437
10/26/2010 1455 hours to 1521 hours	1996 Chevrolet Caprice, License Plate No. 3TTJ204	2002 Pontiac, License Plate No. 6AIV928	WP250438
10/26/2010 1536 hours to 1555 hours	1997 Infinity I30, License Plate No. 4SJB767	2002 Pontiac, License Plate No. 6AIV928	WP250439
10/26/2010 1604 hours to 1623 hours	1996 Saturn SL, License Plate No. 3PKP765	2002 Pontiac, License Plate No. 6AIV928	WP250440
10/26/2010 1640 hours to 1706 hours	1985 Chevrolet C20, License Plate No. 6Z12230	1989 Nissan, License Plate No. 4ZWF646	WP250441

1 FIRST CAUSE FOR DISCIPLINE

2 (Misleading Statements)

3 14. Respondent Los Angeles Smog has subjected her registration to discipline under  
4 Code section 9884.7, subdivision (a)(1), in that on or about October 26, 2010, she made  
5 statements which she knew or which by exercise of reasonable care she should have known were  
6 untrue or misleading when she issued electronic certificates of compliance for the vehicles set  
7 forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws  
8 and regulations when, in fact, those vehicles had been clean piped.

9 SECOND CAUSE FOR DISCIPLINE

10 (Fraud)

11 15. Respondent Los Angeles Smog has subjected her registration to discipline under  
12 Code section 9884.7, subdivision (a)(4), in that on or about October 26, 2010, she committed acts  
13 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in  
14 Table 1, above, without performing bona fide inspections of the emission control devices and  
15 systems on those vehicles, thereby depriving the People of the State of California of the  
16 protection afforded by the Motor Vehicle Inspection Program.

17 THIRD CAUSE FOR DISCIPLINE

18 (Violation of the Motor Vehicle Inspection Program)

19 16. Respondent Los Angeles Smog has subjected her station license to discipline under  
20 Health and Safety Code section 44072.2, subdivision (a), in that on or about October 26, 2010,  
21 regarding the vehicles set forth in Table 1, above, she violated sections of that Code, as follows:

22 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
23 performed on those vehicles in accordance with procedures prescribed by the department.

24 b. **Section 44015, subdivision (b):** Respondent Los Angeles Smog issued electronic  
25 certificates of compliance without properly testing and inspecting the vehicles to determine if  
26 they were in compliance with section 44012 of that Code.

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1 c. **Section 44059:** Respondent Los Angeles Smog willfully made false entries for the  
2 electronic certificates of compliance by certifying that those vehicles had been inspected as  
3 required when, in fact, they had not.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

6 17. Respondent Los Angeles Smog has subjected her station license to discipline under  
7 Health and Safety Code section 44072.2, subdivision (c), in that on or about October 26, 2010,  
8 regarding the vehicles set forth in Table 1, above, she violated sections of the California Code of  
9 Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Los Angeles Smog falsely or  
11 fraudulently issued electronic certificates of compliance without performing bona fide inspections  
12 of the emission control devices and systems on those vehicles as required by Health and Safety  
13 Code section 44012.

14 b. **Section 3340.35, subdivision (c):** Respondent Los Angeles Smog issued electronic  
15 certificates of compliance even though those vehicles had not been inspected in accordance with  
16 section 3340.42 of that Code.

17 c. **Section 3340.42:** Respondent Los Angeles Smog failed to conduct the required smog  
18 tests and inspections on those vehicles in accordance with the Bureau's specifications.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

21 18. Respondent Los Angeles Smog has subjected her station license to discipline under  
22 Health and Safety Code section 44072.2, subdivision (d), in that on or about October 26, 2010,  
23 regarding the vehicles set forth in Table 1, above, she committed acts involving dishonesty, fraud  
24 or deceit whereby another was injured by issuing electronic certificates of compliance for those  
25 vehicles without performing bona fide inspections of the emission control devices and system on  
26 those vehicles, thereby depriving the People of the State of California of the protection afforded  
27 by the Motor Vehicle Inspection Program.

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1 d. Section 3340.42: Respondent Chen failed to conduct the required smog tests and  
2 inspections on those vehicles in accordance with the Bureau's specifications.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

5 21. Respondent Chen has subjected his technician license to discipline under Health and  
6 Safety Code section 44072.2, subdivision (d), in that on or about October 26, 2010, he committed  
7 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
8 certificates of compliance for the vehicles set forth in Table 1, above, without performing bona  
9 fide inspections of the emission control devices and systems on those vehicles, thereby depriving  
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
11 Program.

12 **OTHER MATTERS**

13 22. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,  
14 or may invalidate temporarily or permanently, the registrations for all places of business operated  
15 in this state by Esther Park, also known as Esther Huehung Park doing business as Los Angeles  
16 Smog Center upon a finding that she has, or is, engaged in a course of repeated and willful  
17 violations of the laws and regulations pertaining to an automotive repair dealer.

18 23. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station  
19 License Number TC 261816, issued to Esther Park, also known as Esther Huehung Park doing  
20 business as Los Angeles Smog Center, is revoked or suspended, any additional license issued  
21 under this chapter in the name of said licensee may be likewise revoked or suspended by the  
22 director.

23 24. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist  
24 Technician License Number EA 631325, issued to Martin Chen, is revoked or suspended, any  
25 additional license issued under this chapter in the name of said licensee may be likewise revoked  
26 or suspended by the director.

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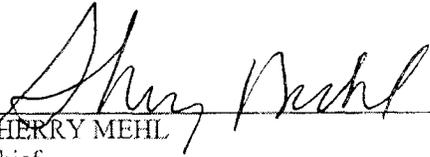
PRAYER

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, suspending, or placing on probation, Automotive Repair Dealer Registration Number ARD 261816, issued to Esther Park, also known as Esther Huehung Park doing business as Los Angeles Smog Center;
2. Revoking, suspending, or placing on probation, any other automotive repair dealer registration issued to Esther Park, also known as Esther Huehung Park;
3. Revoking or suspending Smog Check Test Only Station License Number TC 261816, issued to Esther Park, also known as Esther Huehung Park doing business as Los Angeles Smog Center;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Esther Park, also known as Esther Huejung Park;
5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 631325, issued to Martin Chen;
6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Martin Chen;
7. Ordering Esther Park, also known as Esther Huejung Park and Martin Chen to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
8. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

5/4/11

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

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