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**STATE OF RHODE ISLAND  
DEPARTMENT OF BUSINESS REGULATION  
JOHN O. PASTORE COMPLEX  
1511 PONTIAC AVENUE  
CRANSTON, RI 02920**

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**IN THE MATTER OF**

**DAVID VIGLIOTTI, JR.  
D/B/A/ EMPIRE AUTO BODY & SALES**

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**DBR No. 21AB001**

**CONSENT ORDER**

It is hereby agreed by and between the Department of Business Regulation (Department) and David Vigliotti, Jr. ("Respondent") as follows:

1. The Respondent holds a Full Collision Repair License Class B ("Auto Body License") for the facility at 2151 Hartford Avenue in Johnston, RI (the "Premises") d/b/a Empire Auto Body & Sales.
2. On February 25, 2021, the Department issued an Order to Show Cause initiating an enforcement action based on the following statutory authority and grounds:
  - A. R.I. Gen. Laws § 5-38-12 entitled "Procedure for suspension or revocation of license;" and § 5-38-10.1 entitled "Civil penalties for violations."
  - B. R.I. Gen. Laws § 5-38-10 entitled "Grounds for denial, suspension, or revocation of licenses," and specifically subparagraphs:
    - (1) On proof of unfitness of the applicant to do business as an automobile body repair shop;
    - (3) For any failure to comply with the provisions of this section or with any rule or regulation promulgated by the commission under § 5-38-5;
    - (7) For having indulged in any unconscionable practice relating to the business as an automobile body repair shop;
    - (9) For failure to comply with the safety standards of the industry.
3. The allegations in the Order to Show Cause arose from a written complaint from a consumer with the initials GH filed on 9/5/2019 (the "Complaint") pertaining to a 2018 Hyundai Tucson (the "Vehicle") involved in a collision on 7/29/2019.
4. Had this matter proceeded to a hearing, a qualified witness for the Department (who inspected the Vehicle and the relevant records) would have testified that Respondent's workmanship, recordkeeping, and related business practices raised serious issues of "unfitness"

“unconscionable practice” and “failure to comply with safety standards.”<sup>1</sup>

5. The Respondent failed to maintain “written authorization from the consumer to repair the vehicle” as required by 230-RICR-30-05-2.17(A)(5).
  - A. Specifically, the Complainant alleged that she did not consent to the Respondent repairing the Vehicle, and that she informed the Respondent of her choice to have the Vehicle towed elsewhere for repairs. Further, the Complainant alleged that the Respondent forged her signature on a document, an allegation that was supported by the date on the document being two days prior to the collision actually occurring; and the signature on the document being distinguishable from the Complainant’s signature on her driver’s license.
6. The Department’s investigation of the Complaint and its subsequent investigation of ten (10) additional customer files revealed that the Respondent violated numerous recordkeeping provisions that are essential to ensure regulatory oversight of auto repair businesses for the protection of consumers, collectively including:
  - A. 230-RICR-30-05-2.17(A), which provides that “Licensees must maintain at a minimum the following information in its records for each motor vehicle repaired for a two (2) year period:”
    1. Consumer’s name;
    2. Consumer’s address;
    - \*\*\*
    4. Vehicle VIN (Vehicle Identification Number);
    5. Written authorization from the consumer to repair the vehicle;
    6. All invoices and receipts in connection with the repairs made; and
    7. The final repair bill which contains itemized listings of manufactured parts, used parts and generic parts used in the repair.
  - B. R.I. Gen. Laws § 5-38-28, which provides: “The automobile body repair shop shall include in the documentation of each repair, a repair bill executed by the automobile body repair shop and certifying under the penalties of perjury, the repairs to a particular vehicle that have actually been made.”
  - C. R.I. Gen. Laws § 5-38-29, which provides: “Each repair bill shall contain an itemized

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<sup>1</sup> Among the many issues, as one example, the Respondent submitted certain documents in response to the Department’s request for “before and after [repair] vehicle measurements” for the Complainant’s “alignment and frame.” The Department’s qualified witness identified these documents as two identical images of pre-printed upper body factory measurement schematics used for reference, not actual alignment measurements, which the Respondent then falsely labeled as “before” and “after” measurements.

listing of the manufactured parts, used parts, and generic parts installed by the licensee in the repair of the vehicle.”

- D. R.I. Gen. Laws § 27-10.1-9(b), which provides: “All automobile repair facilities shall, upon reasonable request by the insurer or consumer, present proof of authenticity through invoices and/or receipts for all new and used collision repair parts.”
- E. R.I. Gen. Laws § 5-38-9, which requires that “the license number shall appear on all business communications, estimates...and other written documentation relating to that business.”
- F. The Respondent also failed to update the license file as required by Rule 2.16, with respect to the list of employees.

### **COMPLIANCE TERMS**

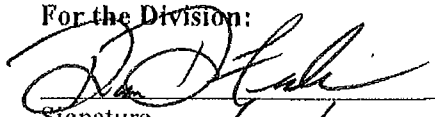
- 7. **Thirty Day Suspension.** The Respondent shall serve a thirty (30) day suspension from August 11, 2021 through and including September 10, 2021. The Premises must be entirely closed during this entire suspension period and no agent of the Respondent may conduct any auto repair business on his behalf at any other location or do any other activity to attempt to circumvent this suspension.
- 8. **Special Record Audits and Penalties for Violations.** The Department has regulatory authority to conduct random inspections and audits of records of its licensees. In addition to that general authority, which remains in full effect, the parties agree to the following provisions for Special Record Audits and Penalties for a period of one year from the date this Consent Order is signed and issued.
  - A. Upon three (3) days notice from the Department, the Respondent shall prepare and either scan or photocopy (at the Respondent’s own time and cost) up to any ten (10) files requested by the Department within the search parameters requested by the Department.
  - B. If the Department finds recordkeeping violations when reviewing the files, it will notify the Respondent of the specific violations. The Respondent shall respond within five (5) days of receipt of the notice of violations. Unless the Respondent has a valid defense, the Respondent shall pay an administrative penalty of \$250 per deficient file, which amount may be negotiated to a lower penalty by mutual agreement of the parties.<sup>2</sup>
- 9. **Future Complaints.** If future complaints against the Respondent are filed and substantiated, the Department may pursue heightened enforcement action, including seeking permanent revocation of the Auto Body License.

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<sup>2</sup> Unless otherwise designated by the authorized parties, the notices and communications reference in this section should be delivered as follows: (a) for the Respondent, by e-mail to Respondent's attorney, Thomas Bucci at [tbucci@calvinolaw.com](mailto:tbucci@calvinolaw.com); (b) for the Department, by e-mail to the Chief Public Safety Inspector, John Mancone at [john.mancone@dbr.ri.gov](mailto:john.mancone@dbr.ri.gov).

10. **Copies of Consent Order Provided to Employees, Independent Contractors, and Agents Engaged in Licensed Activity in Connection with the Auto Body License.** Within five (5) days of the date this Consent Order is issued, the Respondent shall provide copies of this Consent Order to every employee, independent contractor, and/or agent who is engaged in licensed activity in connection with the Auto Body License, and retain a record of each person's signature indicating their receipt of the Consent Order.
11. **Timely Renewal.** The Auto Body License expires on December 30, 2021. The Respondent is responsible for assuring timely renewal with completion of all renewal requirements.
12. **Surrender of Salvage Rebuilder License.** By signing this Consent Order, the Respondent also voluntarily surrenders its Auto Salvage Rebuilder License #AS000A44 (expiring 8/8/21) and shall permanently cease conducting any activity for which such a license is required (e.g. repairing total loss vehicles).<sup>3</sup>
13. **Waiver of Hearing and Appeal.** By agreeing to resolve this matter through the execution of this Consent Order, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
14. **Enforcement.** If the Respondent fails to comply with any term or condition of this Consent Order within any applicable time period set forth herein, the Respondent will be in violation hereunder and the Department may take immediate and/or heightened enforcement or other action in accordance with applicable law.
15. **Compliance; Other Laws.** Compliance with the terms of this Consent Order does not relieve the Respondent of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.

For the Division:

  
Signature

Date: 7/28/21

Donald Defedele

Associate Director

Department of Business Regulation

For the Respondent:

  
Signature

Date: 7/28/21

David Vigliotti, Jr.\*

Owner/Operator

Empire Auto Body & Sales

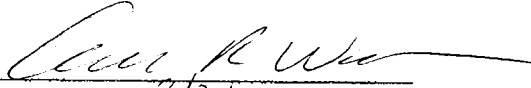
2151 Hartford Avenue

Johnston, RI

\*Represented by Attorney Thomas Bucci

<sup>3</sup> See Auto Body Rule Section 2.11(A): "No Person may engage in the Business of Salvage Vehicle Repairing without first obtaining a License" Section 2.3: "Salvage Vehicle Repair License" means an additional license issued to a Full Collision Licensee that authorizes that Licensee to also conduct the Business of Salvage Vehicle Repairing." "Business of Salvage Vehicle Repairing" or "Salvage Vehicle Repairing" means "the act or acts of preparing, fixing, restoring, or putting together Salvage Vehicles for the owner of the vehicle, or for the purpose of resale in the retail market." "Salvage Vehicle" means "a Motor Vehicle declared to be a total loss because of: a. Damage to such Motor Vehicle; or b. Settlement of a claim for damage or theft, whether or not it is an owner retained Motor Vehicle."

**RECOMMENDED BY:**



Date: 7/28/21

Catherine R. Warren, Esq.  
Hearing Officer

**ORDER**

I have read the Consent Order as agreed to by and between the parties in the above-captioned matter and I hereby take the following action:

Approve

Reject



Elizabeth M. Tanner, Esq.  
Director

Dated: July 28, 2021

**NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12**

**THIS ORDER CONSTITUTES A FINAL ACTION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL AGENCY ACTIONS ARE GENERALLY APPEALABLE TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT IS HEREBY NOTIFIED THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, ANY SUCH RIGHT OF APPEAL HAS BEEN WAIVED.**

**SERVICE CERTIFICATION**

The undersigned hereby certifies that the below described document(s) was processed for delivery as listed below.

Document(s) Description: Consent Order

By E-mail to:

Thomas Bucci, Esq., Counsel for the Respondent ([tbucci@calvinolaw.com](mailto:tbucci@calvinolaw.com))\*

*\*Consented to receipt of this document by e-mail only.*

And cc email to: Hearing Officer Catherine R. Warren ([catherine.warren@doa.ri.gov](mailto:catherine.warren@doa.ri.gov)) and DBR Jenna Giguere, Esq. ([Jenna.Giguere@dbr.ri.gov](mailto:Jenna.Giguere@dbr.ri.gov)).

**Date of Processing:** July 29, 2021

**Electronic Signature:** /s/ Diane L. Paravisini