

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
233 RICHMOND STREET
PROVIDENCE, RI 02903**

IN THE MATTER OF

MICHAEL BETTENCOURT

RESPONDENT.

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DBR No. 05-I-0055

CONSENT ORDER

It is hereby agreed between the Department of Business Regulation ("Department") and Michael Bettencourt ("Respondent") as follows:

1. Respondent is the current holder of Rhode Island Insurance Appraiser License number 1084953 which expires on August 31, 2005.
2. On March 8, 2005, the Department issued an Order to Show Cause as to why Respondents' license as an appraiser should not be suspended or revoked or an administrative penalty issued based upon his testimony under oath in connection with a complaint brought by Ernest Rotella against Autobody Express litigated in administrative proceeding DBR No. 03-L-0052.
3. Respondent has provided proof that he was paid a total of \$55 for the appraisal and supplemental inspection involved in this case.
4. Respondent represented and the Department has no information to the contrary, that he received no remuneration other than that indicated in paragraph 3 above for this appraisal.

5. Respondent represented and the Department has no information to the contrary, that he did not have any direct involvement or knowledge of the factual disputes surrounding DBR No. 03-L-0052 as it relates to the vehicle owners' disagreement with the auto body shop concerning the use of new versus salvage parts in the repair of the vehicle.
6. While the travel of the case in DBR No. 03-L-0052 appear to convey that the appraiser and the auto body shop agreed to no supplements, Respondent has provided proof to the Department that he in fact issued a supplement with regard to the vehicle in question.

Based on the foregoing, Respondent and the Department have determined to resolve this matter without instituting further administrative proceedings and hereby agree to the following resolution:

Respondent shall undertake the following as delineated below in order to allow Respondent to return his License in good-standing.

- a. Pay an administrative penalty of five hundred dollars (\$500).
- b. Serve a one week license suspension during which time he may not undertake any activities for which a motor vehicle damage appraisers' license is required.
- c. Comply with all of the requirements of a motor vehicle damage appraiser as delineated in R.I.G.L. § 27-10.1-1 *et seq.* Respondent acknowledges that compliance with R.I.G.L. § 27-10.1-1 *et seq.* requires in part that:

1. an appraisal must reflect the actual cost to repair a motor vehicle.
Therefore, an appraiser may not enter into an agreement with a body shop and thereafter have the appraisal “written to the number”.
2. an appraiser may not include the cost for new parts in the appraisal when he knows that the auto body shop will not use new parts and must comply with R.I.G.L. § 27-10.2-2 regarding OEM parts.
3. an appraiser may not enter into an agreement with the auto body shop not to request any “supplements”. If the auto body shop finds additional damage during repair and requests a supplement, a reinspection must be undertaken by the appraiser pursuant to R.I. Gen. Laws § 27-10.1-6(e).

d. A copy of this Consent Order will be placed in Respondent’s licensing file and will be considered by the Department in any future discipline.

e. If Respondent violates any terms of this Consent Order or if the Department discovers that the Respondent misrepresented any information submitted to this Department or failed to disclose any information to the Department regarding the above, the Department shall immediately move to revoke Respondent's License.

The Department and Respondent hereby consent and agree to the foregoing on behalf of their respective clients this 29th day of August, 2005.

Department of Business Regulation
By it's Legal Counsel,

Respondent

Original Signature on File

Elizabeth Kelleher Dwyer, Esq.

Original Signature on File

Michael Bettencourt

I hereby approve of the foregoing Consent Order and recommend its adoption this 29th day of August, 2005.

Original Signature on File

Catherine R. Warren
Hearing Officer

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby

ADOPT
 REJECT
 MODIFY

the Decision and Recommendation this 29th day of August, 2005.

Original Signature on File

A. Michael Marques
Director

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42 CHAPTER 35. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS ORDER. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.