

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE
BUILDINGS 68-69
CRANSTON, RI 02920**

<u>IN THE MATTER OF:</u>	:	
	:	
AMERICAR SALES AND COLLISION	:	DBR No. 11-L-0072
CENTER, INC.,	:	
	:	
<u>RESPONDENT.</u>	:	

EMERGENCY ORDER TO CEASE AND DESIST, SHOW CAUSE, APPOINTMENT OF HEARING OFFICER, AND NOTICE OF PRE-HEARING CONFERENCE

Pursuant to R.I.Gen.Laws §§ 42-14-16, 42-35-9, 42-35-14(c) and 5-38-1 *et seq.*, the Director of the Department of Business Regulation (“Department”) hereby issues this Emergency Order to Cease and Desist, Show Cause Why Conditional License Should Not Be Revoked, Appointment of Hearing Officer, and Notice of Pre-hearing Conference (“Order”) to Americar Sales and Collision Center, Inc. (“Respondent”) requiring Respondent to immediately cease and desist any automobile body repair work, and to appear before the Department to answer why the Director of the Department should not issue an order revoking the conditional license and/or issuing whatever penalty is determined to be appropriate pursuant to R.I. Gen. Laws §§ 5-38-10 (1), (3), (4), (7), and (8).

The Director issues this Order for the following reasons:

1. Respondent is a licensed automobile body repair shop located at 626 Main Street in Pawtucket, RI 02860.
2. On March 12, 2012, the Department entered into a Consent Agreement with Respondent, which was represented by counsel throughout the discussion and

negotiation of the Consent Agreement, to resolve six (6) complaints filed against Respondent since 2009.

3. The Consent Agreement allowed Respondent to obtain a conditional automobile body repair shop license which required Respondent to, *inter alia*,:
 - A. Pay a \$20,000.00 administrative penalty (payable in 8 monthly installments of \$2,500 beginning April 6, 2012);
 - B. Complete all repairs within a reasonable time period and provide monthly spreadsheets to the Department reflecting the list of vehicles repaired and the time taken to complete its repairs.
 - C. Report all customer complaints to the Department.
 - D. Comply with all terms and requirements for licensure under R.I. Gen. Laws § 5-38-1 *et seq.*
4. The Consent Agreement further provided that should Respondent fail to comply with the terms of the Consent Agreement, the Department will not renew and/or will seek the revocation of Respondent's automobile body repair shop license.
5. To date, Respondent has not complied with the terms of the Consent Agreement by failing to pay the administrative penalty, failing to report all customer complaints to the Department, and has failed to comply with R.I. Gen. Laws § 5-38-1 *et seq.* based on allegations received in 5 additional written complaints received since the Consent Agreement was signed as well as news reports indicating that Respondent was engaged in criminal mishandling of vehicles under its care, custody, and control.
6. The Department's investigation has revealed that there are at 5 additional customers of Respondent who have complained verbally to the Department and 15 customers

who have complained to the Pawtucket Police Department regarding allegations that

Respondent:

- A. Collected money for repairs but never performed repairs;
- B. Missing vehicles (that were in Respondent's care, custody and control for repair);
- C. Has kept vehicles for long periods of time without repairing the vehicles;
- D. Has performed substandard repairs to vehicles.

7. R.I. Gen. Laws § 5-38-10 provides that:

Grounds for denial, suspension, or revocation of licenses. –
The department of business regulation may deny an application for license or suspend or revoke a license after it has been granted, for the following reasons:

(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;

(4) For defrauding any customer;

...

(7) For having indulged in any unconscionable practice relating to the business as an automobile body repair shop;

(8) For willful failure to perform work as contracted for;

...

8. Upon information and belief, there is cause to revoke Respondent's automobile body repair shop license pursuant to the Consent Agreement and R.I. Gen. Laws §§ 5-38-10 (1), (3), (4), (7), and (8).

9. Additionally, Respondent is engaging in a continued pattern of deficient and unconscionable automobile body repair work without regard for statutory

requirements and/or public welfare and this conduct constitutes a threat to public welfare and requires the immediate suspension of the activity pursuant to R.I. Gen. Laws § 42-35-14(c).

Therefore, pursuant to R.I. Gen. Laws §§ 42-6-8 and 42-35-14(c) the Director orders:

- A. Respondent to immediately cease any automobile body repair work.
- B. Respondent to provide a list of all automobile body repairs conducted which list includes: 1) name and address of customer; 2) amount of automobile body repair work performed; 3) insurance company involved in repair, if any; 4) dates the repairs were performed and by what entity or individual; 5) location of vehicle; 6) monies collected related to repair of vehicle; 7) identification of all bank accounts related said repairs and/or unrepaired vehicles; 8) bank statements for all accounts related to said repairs and/or unrepaired vehicles.
- C. Respondent to appear before a Hearing Officer at the Department on **May 24, 2012 at 2:30 p.m.** at the Department's offices located at the John O. Pastore Center, 1511 Pontiac Avenue, Building 68-2, Cranston, Rhode Island 02920 for a prehearing conference pursuant to Rule 5 of the *Rules Procedure for Administrative Hearings* and explain why the Director should not issue an order imposing a cease and desist order for Respondent pursuant to R.I. Gen. Laws § 42-35-14(c), a revocation of the conditional license to the terms of the Consent Agreement and R.I. Gen. Laws §§ 5-38-10(1), (3), (4), (7), and (8) and/or whatever penalty is determined to be appropriate pursuant to R.I. Gen. Laws § 5-38-1 *et seq.*

The Director hereby appoints Catherine Warren as Hearing Officer for the purpose of conducting the hearing and rendering a decision in his matter. The proceedings shall be conducted in conformity with R.I. Gen. Laws §§ 42-35-1 *et seq.* All interested parties with questions regarding the Emergency Order may contact Neena Sinha Savage, Esq. at (401) 462-9540 or NSSVG1@dbr.ri.gov.

Dated this 10th day of May 2012.



Paul McGreevy
Director

CERTIFICATION

I hereby certify that on this 10th day of May 2012 a copy of this Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer was sent by first class mail postage prepaid and certified mail to:

Americar Sales & Collision Center, Inc.
626 Main Street
Pawtucket, RI 02860

Peter J. Petrarca, Esq.
330 Silver Spring Street
Providence, RI 02904

and by email to: Maria D'Alessandro, Deputy Director, John Mancone, Chief, Auto Body, Auto Wrecking, and Salvage Operations, and Kimberly Precious, Implementation Aide, Neena Sinha Savage, Chief of Legal Services, Department of Business Regulation, 1511 Pontiac Ave, Cranston, Rhode Island 02920.


