

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER, BLDG. 68-1
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF :
:
:
PETER GIGLIOTTI AND, :
PETER GIGLIOTTI, INC., D/B/A :
RALPH AND SONS, :
:
RESPONDENT. :

DBR No. 19AB004

CONSENT AGREEMENT

The Department of Business Regulation through its Division of Commercial Licensing (“Department”), and Peter Gigliotti and Peter Gigliotti, Inc., a Rhode Island limited liability company, d/b/a Ralph and Sons (“Respondent”)(collectively, “the Parties”), hereby consent and agree that:

1. Respondent is an auto body and salvage repair business located at 456 West Fountain St., Providence, Rhode Island 02903.
2. The Respondent possesses a Motor Vehicle Body Class B License No. AB-0000361-B (“Auto Body License”) and an Auto Salvage Rebuilder License No. AS-00A153 (“Salvage License”).
3. On May 7, 2019, a 2016 Honda Civic, Vin No. 19XFC2F59GE003772 (the “Vehicle”), underwent a salvage inspection at the Department of Motor Vehicles (the “DMV”) pursuant to an *Application for Salvage Inspection* filed on April 26, 2019¹ by Respondent Ralph and Sons Auto and signed by Respondent Peter Gigliotti. The DMV’s Safety and Emissions Control Division Inspector (“DMV Inspector”) thereafter found that the light for the Supplemental Restraint System (“SRS”)², which was said to have been repaired in the salvage rebuild, was malfunctioning.
4. On May 8, 2019, the Vehicle was attached to a scan tool, and revealed that the SRS system was operating incorrectly. After dismantling the Vehicle’s instrument cluster, it was found that electrical tape had been placed over the SRS lamp in order to conceal its illumination despite its three active diagnostic trouble codes.

¹ The vehicle is also consistently listed as repaired by Ralph and Sons Auto on the *Certificate of Salvage Repair*, dated March 25, 2019 and signed by Respondent Peter Gigliotti.

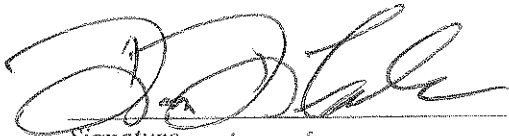
² Also known as the air bag.

5. On May 8, 2019, the Safety and Emissions Control Division Chief (“Chief”) informed the Division’s Chief Public Safety Inspector (“Inspector”) of the Vehicle’s May 7th and May 8th discoveries (the “Complaint”). The Inspector inspected the Vehicle the same day and found the same issues with the Vehicle as did the DMV Inspector and the Chief, which were documented in photos of the codes and the electrical tape and in a written report.
6. On May 16, 2019, the Division sent the Respondent a letter detailing the Complaint and requesting a response, which it received on May 30, 2019.
7. On May 30, 2019, the Department issued an *Order to Show Cause Why Order Should Not Issue Revoking License, Notice of Intent to Impose Administrative Penalties and Appointment of Hearing Officer* (“Order”) to Respondent.
8. On or about June 3, 2019, the Respondent took the Vehicle to Greico Honda in Johnston, Rhode Island, which eventually found that the SRS lamp indicator illumination was directly attributable to a malfunctioning connection in the seat belt harness attachment. The seat belt harness was replaced at a cost (without labor) of four-hundred and thirty-one dollars and thirty-six cents (\$431.36) for parts shipped on June 11, 2019 and one-hundred and sixty-five dollars and fifty-eight cents (\$165.58) for a part ordered and shipped on June 17, 2019.
9. On August 13, 2019, because the issue causing the SRS indicator light to illuminate was resolved, the DMV inspected and approved the Vehicle and issued an *Inspection Approval Report – Reconstructed Salvage*.
10. R.I. Gen. Laws § 5-38-10 provides: “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 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...”
11. Pursuant to 230-RICR-30-05-2 (“Regulation”), §2.14(A): “The Department may deny an Application for a Salvage Vehicle Repair License, or revoke or suspend a Salvage Vehicle Repair License for any of the following reasons...11. Any misuse of a Certificate of Salvage Repair.”

12. The Department's position is that Respondent was in possession of and was responsible for the Vehicle when it was submitted for its initial salvage reinspection at the DMV on May 7, 2019. That possession and responsibility, together with the March 23, 2019 *Vehicle Inspection Report* from Mario's Triangle Service Center, stating that the Vehicle "passed" the SRS test, the Respondent's April 16, 2019 order of a SRS SafetyRestore "OEM Airbag Module Reset," and the Respondent's subsequent May 7, 2019 reinspection at the DMV when the illuminated SRS light was discovered, demonstrate that Respondent had a clear motive to manipulate the SRS illumination's appearance with the electrical tape found on May 7, 2019 and did so.
13. The Respondent's position is that Respondent in no way manipulated the SRS lamp's appearance on the Vehicle's instrument cluster and therefore neither admits nor denies any of the Department's allegations that are represented in ¶ 13.
14. Based on the FOREGOING, the Department represents it has good cause to pursue a revocation of Respondent's Auto Body and Salvage Licenses for violations of § 5-38-10(7) and (9) and Regulation §2.14(A)(11).
15. In an effort to affect a timely and amicable resolution of the issues raised in this Consent Agreement without an administrative hearing, the Parties enter into this Consent Agreement solely for the purpose of avoiding the burdens and expenses of litigation. The Department agrees that it will not pursue revocation of Respondent's Auto Body and Salvage Licenses, as long as the Respondent satisfies the following terms and conditions:
 - a. On or before **October 2, 2020**, the Respondent shall pay an administrative penalty in the amount of two-thousand dollars (\$2,000.00) payable by check to the "Rhode Island General Treasurer"; and
 - b. The Respondent's Auto Salvage License shall be suspended for a period of fifteen (15) days from the *25th* day of September, 2020.
16. The parties agree that this Consent Agreement and its terms represent the final determination of this matter.
17. *Waiver of Hearing and Appeal.* By agreeing to resolve this matter through the execution of this Consent Agreement, 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.*
18. *Enforcement.* If the Respondent fails to comply with any term or condition of this Consent Agreement within any applicable time period set forth herein, the Respondent will be in violation hereunder and the Department shall be entitled to immediately take enforcement or other action in accordance with applicable law.
19. *Compliance; Laws.* Compliance with the terms of this Consent Agreement 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.


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For the Division:

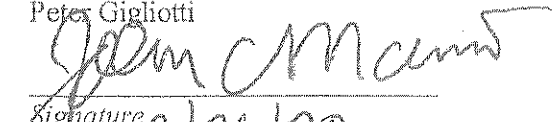

Signature
Date: 9/25/2020

Mr. Don DeFedele
Associate Director
Division of Commercial Licensing

Respondent:


Signature
Date: 9-25-2020

Peter Gigliotti


Signature
Date: 9/26/20
John Manni, Esq.
Counsel for the Respondent