

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF BUSINESS REGULATION

1511 PONTIAC AVENUE

BUILDINGS 68-69

CRANSTON, RI 02920

Business Regulation
Director's Office

JAN 15 2014

Received

IN THE MATTER OF

ANDRE'S AUTO BODY

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DBR No. 13AB083

CONSENT AGREEMENT

The Division of Commercial Licensing ("Division") of the Rhode Island Department of Business Regulation ("Department") enters into this Consent Agreement ("Agreement") with Gilberto Andres d/b/a Andre's Auto Body and Erminio Andres (collectively "Respondents") to resolve the above-captioned matter pursuant to its authority under R.I. Gen. Laws § 42-35-9(d).

It is hereby agreed by and between the Division and the Respondents that:

1. On April 7, 2011, the Department issued a full collision automobile body repair shop license ("License") to Respondent Gilberto Andres d/b/a Andre's Auto Body pursuant to R.I. Gen. Laws § 5-38-1 *et. seq.* The License authorized auto body repair work at 550 Valley St., Providence, Rhode Island, 02908 (the "Premises").
2. R.I. Gen. Laws § 5-38-7 charges the Department with "mandating the term of each license." Timely and complete renewal applications must be submitted at the end of each term.
3. The renewal application for the current License term was due December 31, 2012.
4. As of the date of this Order, the Department has not received a renewal application from the Respondent.

5. Based on the above, the License expired on December 31, 2012.
6. On or about July 24, 2013, the Department's Chief Public Protection Inspector inspected the Premises, finding evidence that auto body repair work was being performed thereon using the assumed business name "Andre's Auto Body."
7. On August 29, 2013, the Department issued an Order to Show Cause Why Cease and Desist Order and/or Other Administrative Penalties Should Not Issue to Gilberto Andres d/b/a Andre's Auto Body.
8. In the records of the Clerk of the City of Providence, Gilberto Andres certified that he is the owner of the business operated under the Assumed Business Name "Andre's Auto Body."
9. Gilberto Andres represented to counsel for the Division that he ceased operating on the Premise in October 2012.
10. However, based on the Inspector's observations, the Department has reasonable grounds to believe that the auto body repair activity continued under the assumed business name on the Premises between the date of expiration (December 31, 2012) and the date of the inspection (July 24, 2013) without current and valid licensure.
11. Gilberto Andres represented to counsel for the Department that his father Erminio Andres may have been operating on the Premises during this time. Gilberto further represented that his father has not been operating on the premises since Gilberto notified his father of the Order.
12. R.I. Gen. Laws § 5-38-4 provides that "[n]o person, firm, or corporation shall engage within this state in the business of auto body repairing or painting or enter into contracts for the repairing, replacing, or painting of auto bodies or parts of auto

bodies or advertise or represent in any form or manner that he, she, or it is an auto body shop unless that person, firm, or corporation possesses a license *in full force and effect* from the department of business regulation specifying that person, firm, or corporation as licensed to operate or conduct an auto body shop.”

13. The Respondents hereby agree to cease and desist from all unlicensed auto body repair work on the Premises.
14. In consideration of the foregoing, the Department agrees to withdraw the September 25, 2013 Order.
15. By signing this Agreement, the Respondents voluntarily waive any right to an administrative hearing or appeal to Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
16. By signing this Agreement, the Respondents acknowledge and understand that should Respondents violate the terms of this Consent Agreement and/or engage in any other administratively, criminally, or civilly sanctionable conduct, the Department may refer the matter to the Attorney General for retains full authority to refuse to issue an automobile body repair license, or, if granted, to revoke, suspend, fine, or refuse to renew the license, after notice and opportunity for hearing.

FOR THE DIVISION:



Date: 1/16/14

Maria D'Alessandro, Esq., Deputy Director, Securities, Commercial Licensing and Racing and Athletics

FOR THE RESPONDENTS:

Gilberto Andres




Date: 01-08-14

Erminio Andres

Date: 01-08-14

CERTIFICATION

I hereby certify that on this 10th day of December, 2013 a copy of this Consent Agreement was sent by regular and certified mail to:

Gilberto Andres
49 Gough Ave
West Warwick RI 02893



A handwritten signature in cursive script, appearing to read "Gilberto Andres", is written over a horizontal line.