

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND 02920**

In the Matter of:	:	
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	:	
David Santiago d/b/a R Teto Auto Sales and Hever Juarez,	:	DBR No.: 18AB003
	:	
	:	
Respondents.	:	

CEASE AND DESIST ORDER FOR DAVID SANTIAGO d/b/a R TETO AUTO SALES

The above-entitled matter came for a hearing on December 14, 2018 pursuant to the Department of Business Regulation’s (“Department”) Amended Order to Show Cause Why Order Should not Issue to Cease and Desist Unlicensed Activities, Notice of Intent to Impose Administrative Penalties, Notice of Hearing; and Appointment of Hearing Officer ("Amended Order") issued to David Santiago d/b/a R Teto Auto Sales (“Santiago”) and Hever Juarez (“Juarez”) (collectively “Respondents”). An initial order to show cause was issued on July 13, 2018 with a pre-hearing conference being held on August 7, 2018. A notice of hearing (“Notice”) for the December 14, 2018 hearing date was sent to Respondents. The Respondents did not appear on December 14, 2018 at the hearing.

At hearing, the undersigned granted the Department’s motion to amend the initial order to show cause. No objection to said motion had been received by the undersigned. The Department represented that it was in the process of resolving this matter with Juarez but wanted to proceed against Santiago. Pursuant to Section 2.9 of the 230-RICR-100-00-2 *Rules of Procedure for Administrative Hearing* (“Rules”), service may be made by hand-delivery or first-class mail and service is complete upon mailing when sent to the last known address of the party. In this matter,

the notice was sent to Santiago's last known address by first class and certified mail.¹ Since Santiago was adequately noticed of hearing, a hearing was held before the undersigned on December 14, 2018. Additionally, Section 2.21 of the Rules provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record. The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 5-38-1 *et seq.* and the Rules.

John Mancone, Chief Public Protection Inspector, testified on behalf of the Department. He testified that that the Department received a complaint from an insurance company regarding automobile body repair work being performed by R Teto Auto Sales at 31 Congress Street, Pawtucket and that R Teto was not licensed as an automobile body shop. See Department's Exhibits One (1) and Two (2) (complaint). He testified that on June 5, 2018, he inspected said location and found automobile body repair work such as sanding, painting, and replacing parts being performed. He testified that the location had a full spray booth and he observed dismantled vehicles and Santiago identified himself as an owner. See Department's Exhibit Three (3) (inspection report). He testified that he conducted a further inspection on December 13, 2018 at that location and there were damaged vehicles being repaired, vehicles ready to be painted, and vehicles being sanded, etc. See Department's Exhibits Six (6) (report regarding December 13, 2018 inspection) and Seven (7) (various photographs of the December 13, 2018 inspection showing the vehicles being repaired).

¹ The Notice was sent to address listed for R Teto Auto Sales on the Rhode Island Secretary of State's website. See Department's Exhibits Four (4) and Five (6). In addition, John Mancone, Chief Public Protection Inspector, testified that he inspected said location on December 13, 2018 and spoke to Santiago who informed Mancone that he had received the Notice and knew of the hearing scheduled for December 14, 2018.

At hearing, the Department requested that the undersigned make findings of facts on the basis of the Amended Order, testimony, and exhibits and enter a default judgment against Santiago.

R.I. Gen. Laws § 5-38-4 provides as follows:

Practices for which license is required. (a) An annual license shall be issued to businesses, corporations, and persons meeting the qualifications set by the auto collision repair licensing board and paying the required fees. Qualification shall be set by the auto collision repair licensing board and approved by the director.

(b) No 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.

(c) This chapter applies to every new and used motor vehicle dealer as defined in § 31-1-19, but does not apply to or require the obtaining of a license by persons, firms, or corporations whose business is or may be limited to the making or entering into contracts for the making of mechanical or electrical repairs or adjustments to motor vehicles.

R.I. Gen. Laws § 5-38-1 defines "automobile body shop" as follows:

"Automobile body shop" defined. Automobile body shop, referred to as "auto body shop", includes any establishment, garage, or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers, chassis and similar components of motor vehicle bodies as distinguished from the seats, motor, transmission, and other accessories for propulsion and general running gear of motor vehicles, except as provided in § 5-38-20. No repairs performed by licensees under this chapter may be performed using mobile units, but may only be performed at a fixed, licensed location. This section shall not apply to glass repair and installations or paintless dent repairs.

Based on the foregoing, the undersigned makes the following findings of fact:

1. Pursuant to Section 2.21 of the Rules, Santiago is declared to be in default for failing to appear at the hearing.

2. Pursuant to Section 2.21 of the Rules, the allegations in the Amended Order are found to be true and the exhibits entered at hearing are found to be true. The allegations in the Amended Order are hereby incorporated by reference into this order as findings of facts.

Based on the testimony, exhibits, and Amended Order and the foregoing, the undersigned makes the following conclusion of law:

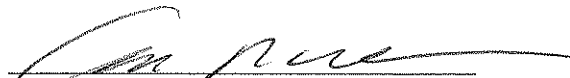
1. The Respondents are performing automobile body shop work and are not licensed as required by R.I. Gen. Laws § R.I. Gen. Laws § 5-38-1 *et seq.*

2. The Respondents violated R.I. Gen. Laws § 5-38-1 *et seq.* by acting as an unlicensed automobile body shop.

On the basis of the foregoing, the undersigned makes the following recommendation:

Pursuant to R.I. Gen. Laws § 5-38-19(b),² Santiago is hereby ordered to cease and desist from engaging and acting as an automobile body repair shop in the State of Rhode Island.

Entered this 19th day of December, 2018.

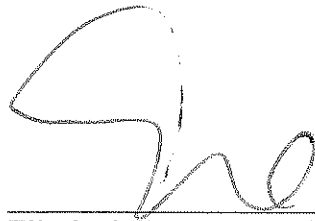

Catherine R. Warren
Hearing Officer

² R.I. Gen. Laws § 5-38-19(b) provides as follows:

(b) If the department of business regulation has reason to believe that any person, firm, corporation, or association is conducting an automobile body repair shop business without obtaining a license, or who after the denial, suspension, or revocation of a license is conducting that business, the department may issue its order to that person, firm, corporation, or association commanding them to appear before the department at a hearing to be held not sooner than ten (10) days nor later than twenty (20) days after issuance of that order to show cause why the department should not issue an order to that person to cease and desist from the violation of the provisions of this chapter. That order to show cause may be served on any person, firm, corporation, or association named by any person in the same manner that a summons in a civil action may be served, or by mailing a copy of the order, certified mail, return receipt requested, to that person at any address at which that person has done business or at which that person lives. If during that hearing the department is satisfied that the person is in fact violating any provision of this chapter, the department may order that person, in writing, to cease and desist from that violation. All these hearings are governed in accordance with the Administrative Procedures Act, chapter 35 of title 42. If that person fails to comply with an order of the department after being afforded a hearing, the superior court for Providence County has jurisdiction upon complaint of the department to restrain and enjoin that person from violating this chapter.

I have read the Hearing Officer's recommendation in this matter and I hereby ADOPT/REJECT the findings of facts, the conclusions of law, and the recommendation of the hearing officer in the above-entitled Order.

Date: 12/20/18



Elizabeth Tanner, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 20th day of December, 2018, that a copy of the within Order was sent by first class mail, postage prepaid, and also by certified mail, return receipt requested to Mr. David Santiago, 32 Congress Street, Pawtucket, R.I. 02861 and by electronic delivery to Sara Tindall-Woodman, Esquire, Donna Costantino, Associate Director, and John Mancone, Inspector, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, RI.

