

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

<u>IN THE MATTER OF:</u>	:	
	:	
<b>HERMAN S. CABRAL, and</b>	:	
<b>A+ COLLISION CENTER, LLC,</b>	:	<b>DBR NO. 16AB001</b>
	:	
<u>RESPONDENTS.</u>	:	

**CONSENT ORDER**

It is hereby agreed by and between the Department of Business Regulation (“Department”) A+ Collision Center, LLC (“A+ Collision”) and its authorized principal Herman S. Cabral (collectively “Respondents”) as follows:

1. A+ Collision is a business located and currently operating at 50 Blundell Street, Providence, Rhode Island 02905.
2. The Department issued a full collision Motor Vehicle Body License (“License”) No. 960 to Respondents on October 24, 2007.
3. Respondents’ License expired on December 31, 2012, as a result of their failure to timely submit a complete renewal application.
4. Respondents entered into a Consent Agreement with the Department on March 5, 2014 (“2014 Consent Agreement”), which, if complied with, would have resulted in the renewal of the License through December 31, 2015. However, Respondents failed to submit proof of technician certifications as required by the 2014 Consent Agreement and, thus, Respondents’ License remained expired.

5. Respondents filed a timely renewal application for the 2016 to 2018 licensing cycle, but that application was also incomplete because it failed to demonstrate proof of all required technician certifications.

6. On August 9, 2016, the Department received a complaint alleging violations of R.I. Gen. Laws §§ 5-38-1 to -31 in connection with Respondents' performance of automobile body repairs on a 2014 Nissan Altima ("subject vehicle") owned by Complainant, a used car dealer and rental business. Specifically, on or about June 9, 2016, Respondents performed auto body repairs on the subject vehicle which was brought in by a Customer who had previously rented the vehicle from Complainant. Complainant alleges that said repairs were made without receiving written authorization from the Complainant and that such repairs were substandard.

7. The Department's Chief Public Protection Inspector ("Inspector") conducted an inspection of Respondents' premises on August 17, 2016. The Department's Inspector found Respondents to be operating an automobile body repair shop without a license.

8. The Department's investigation also revealed that A+ Collision was previously incorporated in Rhode Island but its Certificate of Organization/Registration was revoked by the Rhode Island Office of the Secretary of State on June 1, 2015. Respondents represent that they are currently in the process of reinstating A+ Collision as a corporation with the Rhode Island Secretary of State.

9. On August 25, 2016, the Department issued an Order to Show Cause Why Order Should Not Issue to Cease & Desist Unlicensed Activities, Notice of Intent to Impose Administrative Penalties, Notice of Hearing and Appointment of Hearing Officer.

10. R.I. Gen. Laws § 5-38-4(b) provides: "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.”

11. R.I. Gen. Laws § 5-38-10(5) provides that the Department “may deny an application for license or suspend or revoke a license after it has been granted, for the following reasons:” which include “dismantling any automobile without the written authorization of the owner of the automobile.”

12. Since the first scheduled pre-hearing conference in September 2016, Respondents have cooperated with the Department’s investigation and have provided proof of all required technician certifications.

13. The Department’s position is that Respondents operated an unlicensed auto body shop in violation of R.I. Gen. Laws § 5-38-4(b) and performed auto body repairs on the subject vehicle without receiving written authorization from Complainant in violation of R.I. Gen. Laws § 5-38-10(5).

14. While Respondents neither admit or deny the allegations herein, in order to resolve this matter amicably and avoid the time and costs of an administrative hearing, the Department and Respondents hereby agree to the following:

- a. The Department will issue Respondents a Temporary License effective for one hundred and twenty (120) days from the execution of this Order.
- b. The Department will ONLY issue Respondents a full License after the one hundred and twenty (120) days have elapsed if Respondents have satisfied ALL of following conditions:
  - i. Respondents shall submit all outstanding application materials;

- ii. Respondents shall pay an administrative penalty of \$1200, which may be paid in three monthly installments of \$400, with the first payment due upon execution of this Order;
- iii. No new complaints have been filed against Respondents with the Department.

15. Respondents acknowledge that, pursuant to R.I. Gen. Laws § 5-38-10(5), they are required to receive written authorization from the owner of each vehicle prior to performing auto body repairs on that vehicle.

16. By agreeing to resolve this matter through the execution of this Consent Order, Respondents knowingly and voluntarily waive any right to an administrative hearing and waive 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.*

17. If Respondents fail to comply with any term or condition of this Consent Order within any applicable time period set forth herein or as extended by agreement of the parties, Respondents will be in violation hereunder and the Department shall be entitled to immediately to take enforcement or other action in accordance with applicable law.

18. Compliance with the terms of this Consent Order does not relieve Respondents of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.

19. This Consent Order shall be deemed entered into as of the date of execution by all parties. This Consent Order shall be binding upon Respondents' successors.

[Remainder of page left intentionally blank.]

For the Division:

Maria D'Alessandro

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

Date: 4/5/2017

For Respondents:

Herman Cabral

Herman Cabral/A+ Collision  
Respondents

Date: 4-5-2017

Richard F. Daley

Richard F. Daley, Esq.  
Counsel for Respondents

Date: April, 2017

RECOMMENDED BY:

Catherine Warren

Catherine Warren, Esq.  
Hearing Officer

Date: 4/10/17

**ORDER**

I have read the Consent Order as agreed to by and between the parties in the above captioned matter and I hereby take the following action:

Approve

Reject

Dated: 4/12/17

Scotty Lindsey  
Scotty Lindsey  
Director

**NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12**

**THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED.**

**CERTIFICATION**

I hereby certify on this 18 day of April 2017, that a copy of the within Consent Order was sent by first class mail, postage prepaid, to:

Herman Cabral A+ Collision 50 Blundell St. Providence, RI 02905	Richard F. Daley, Esq. 623 Post Road Warwick, RI 02888
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**AND BY E-MAIL TO:**

1. Richard F. Daley, Esq., [richard@rfdaleylaw.com](mailto:richard@rfdaleylaw.com)
2. Catherine Warren, Esq., Hearing Officer
3. Maria D'Alessandro, Esq., DBR Deputy Director, Securities, Commercial Licensing, Gaming & Athletics
4. Donna Costantino, DBR Associate Director Commercial Licensing, Gaming & Athletics
5. John Mancone, DBR Chief Public Protection Inspector
6. Kim Precious, DBR Implementation Aid
7. Amy C. Stewart, Esq., DBR Legal Counsel

  
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