DEPARTMENT OF JUSTICE
Antitrust Division

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Steven John Fellman, Esquire
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Canal Square
1054 Thirty-First Street, N.W.
Washington, D.C. 20007-4492

Dear Mr. Fellman:

This letter responds to your request on behalf of the Independent Automotive Damage Appraisers Association ("IADAA") for the issuance of a business review letter pursuant to the Department of Justice's Business Review Procedure, 28 C.F.R. § 50.6. The Business Review Letter is requested in connection with IADAA's plans to establish a program to market and sell the services of its members on a national or multi-regional contract basis using an independent third party agent.

Based on the information provided, we understand that IADAA is a national trade association of independent automotive damage appraisers. The IADAA advises its members on new and changing automotive repair methods, technologies and materials. Approximately 92 appraisers located throughout the United States are members of IADAA.

Traditionally, IADAA members have sold their services independently to local insurance companies, oil leasing companies, banks, and fleet service companies. You submit that because of the local nature of their business, individual IADAA members do not have the resources to market their services on a national or multi-regional basis, now or in the

foreseeable future. You suggest, however, that many potential customers operate nationally and prefer to do business with damage appraisers that can provide centralized sales, billing, and administrative functions and that can otherwise service their needs on a national or multi-regional basis. You have represented to us that in recent years several non-IADAA member appraisal companies have captured a large and growing share of the automotive damage appraisal service market because these larger companies can provide services on a national or multi-regional basis.

To enable themselves to compete for national account business, IADAA's members would like to use an independent third party agent to market their services on a national or multi-regional basis. According to your representations, the independent agent hired by IADAA will function essentially as a "messenger." The agent's task will be to meet with national account representatives and discuss the benefits to them of dealing with independent IADAA members, but, it will not have the authority to negotiate contracts on behalf of IADAA or its individual members. IADAA's messenger agent will be authorized to obtain from the national accounts the various proposals that those firms utilize in hiring independent appraisers. Such proposals, we understand, will typically be in writing and will normally include the national account's payments terms for an independent appraisal (including expenses) and describe the steps the appraiser must follow in making an appraisal.

The third party agent will report the results of any meeting with a national account to the entire IADAA membership. In those cases where a national account is willing to refer matters to IADAA members, the members will be so informed and a copy of the national account written proposal will be given to each IADAA member. The fact that any national account, after meeting with the third party agent, declined to make a proposal, will also be disclosed to the entire IADAA membership.

The IADAA messenger agent will not discuss with individual IADAA members the prices to be charged by the members for their service. Instead, the individual IADAA members will be requested to write back to the third party agent, advising the agent whether or not the member is willing to perform the appraisals under the terms and conditions offered by the national account. The agent will forward to the national account a list of those IADAA members that are willing to provide services in accordance with its proposal. You have represented that there will be no limitation on the rights of any IADAA members to contact the national accounts directly and offer to perform the services at a price lower or higher than the price set forth in the national account's proposal. You have further represented that IADAA members will not discuss among themselves whether or not as individuals they intend to accept, reject or make a counteroffer to any particular national account's proposal. Finally, we understand that there will be no limitation on the rights of

any IADAA member to accept or reject proposals from national accounts.

In the same vein, each national account will make its own unilateral decision whether to participate in the IADAA marketing program and will convey that decision to the third party agent. Moreover, any national account that wishes to participate in the IADAA marketing program will have the right to pick and choose among those IADAA members with whom it will deal. There will be no requirement that a national account deal with all or a minimum subset of IADAA members.

We understand that for possibly as long as the first year of the marketing plan an IADAA member may accompany the third party agent to meetings with the national accounts in order to provide technical information regarding the appraisal business. In this way, it is hoped that the third party agent will be better able to convince a national account to use the services of IADAA's members. IADAA intends to hire an independent insurance professional to accompany the third party agent to national account meetings as soon as the marketing program generates sufficient income to warrant hiring such an individual. Any member who accompanies the third party agent to a national account meeting will not be given any competitive advantage over his or her IADAA competitors nor will it be authorized to provide any specific details regarding discussions with national account representatives to other IADAA members.

In light of the fact that the IADAA members constitute only a very small percentage of the total number of damage appraisers, that members will not discuss price with each other, and that each individual IADAA member will make his or her own separate independent decision about whether or on what terms it will deal with a national account, the proposed arrangement should not pose any significant competitive issues. Consequently, based on the information and assurances that you have provided to us, the Department of Justice has no present intention to challenge the proposed IADAA marketing program.

To the extent that the proposed marketing plan increases the number of automotive damage appraisers available to national purchasers of such services, it could have a procompetitive effect.

In accordance with our normal practice, however, the Department remains free to bring whatever action or proceeding it subsequently comes to believe may be required in the public interest if the proposed marketing program proves to be anticompetitive in purpose or effect.

This statement is made in accordance with the Department of Justice Business Review Procedure, 28 C.F.R. § 50.6, a copy of which is enclosed. Pursuant to its terms, your business review request and this letter will be made publicly available immediately. In addition, any supporting data that you have not identified as confidential business information under paragraph 10(c) of the Business Review Procedure also will be made publicly available thirty days after the date of this letter.

Sincerely,

/s/

Anne K. Bingaman
Assistant Attorney General