

Minutes of ADALB September 28, 2005 meeting held in Marlboro, MA

Present: Chairman Gilbert Cox

Members: Bruce King, Donald Spinelli, Stephen Tague and Joe Valarioti,

Attorney for the Board: Richard Cody and Secretary: Yvonne Torres

Approval of Minutes

Joe V. moved to accept minutes. Seconded by Bruce King. Passed 4-0

Report on licenses

5,214 Active Licenses

322 pending renewal

1 Temporary License - Joseph F Fusco – T00022

30 individuals passed Part I and are on the list for Part II

10 retakes for Part I

210 new applications processed and all pending examination results

Recorded by John Joyce, Commerce Ins. Co. (Audio/Video) AND Thomas Colo (Audio)
Bruce King (Audio) and Bill McDonough, Damage Report (Video only)

Informal Hearings

2005-05 – Dean Luther v. Thomas Dickson and William Rand, Rand Appraisal

Present: Robert D'Auria, Esq. representing Mr. Luther of Carlisle Auto Body

Dean Luther, Thomas Dickson and William Rand

Joe V. moved to go to formal hearing. Motion failed.

Bruce moved that both parties get together and resolve their issue and that the matter be postponed until next meeting. Spinelli seconded. Passed 4-0

Old Complaints

2005-06 – Colo v. Commerce (Bradford matter)

Both parties presented their written resolutions to the Board.

Tague moved to draft a final resolution incorporating material submitted by both parties and to be discussed at the next meeting. Seconded by King. Passed 4-0. Matter disposed.

New Business

2005-02 – Mario Marengi v. Rawson

Summary: This complaint was forwarded to Scott Rawson twice for response but the Board has not received a response. Motion by King to revoke his license for the period of 1 year and \$50 fine unless he responds within two weeks. Seconded by Spinelli. Passed 4-0.

Review of Complaints against Commerce Appraisers with respect to Paint & Material

Mr. Cox stated, the ADALB has determined that:

“The presentation, by the repair shop, of the Mitchell Paint and Materials Calculator, or any other published manual, settles two issues. First, that the dollars times hour formula being offered by the insurance company is inadequate, and two, that there is a presumption that the Mitchell Paint & Materials Calculator is accurate, provided the Mitchell Paint & Materials Worksheet has been filled out correctly, unless other evidence (other documentation) can prove otherwise. Once the Mitchell Paint & Materials Calculator is used by the repair shop the “burden of proof” shifts back to the insurance company to prove, through actual Paint &

Materials invoicing that the Mitchell Paint & Materials Calculator is incorrect on a particular repair”.

Joe Valarioti moved that: “As of 1:00 pm today, September 28, 2005, all licensed appraisers shall recognize advisory ruling 98-97-1 REVISED and that the use of all published manuals including any paint & materials guide shall be used unless that guide can be proved to be inaccurate through the use of actual paint & materials invoicing on a particular repair.”

Mr. Cox stated that as of 1:00 pm today, failure of any licensed appraiser to recognize and use, in its entirety, any published manual including a paint & material manual, will be in violation of 212CMR and that individual will, if found in violation of the regulation, have his or her appraiser’s license suspended.

The above statements calling for an effective date of September 28, 2005, for recognition of the Board’s interpretation of Advisory Ruling 97-98 (REVISED) on paint and material was NOT voted on at that this meeting.

Mr. King made a motion to postpone all current pending paint & material complaints before the board for three months. Passed 4-0 in favor.

Bruce King made a motion that he and Steve Tague write a cover letter to be sent out with advisory ruling 98-97-1 revised and Don Spinelli insisted that the language in the letter incorporate the language used in the ADALB March meeting minutes making the Board’s position on paint & materials crystal clear. Passed 4-0 in favor.

Other discussions

Language will be included in the cover letter on the P&M issue stating that all appraisals should be prepared under penalties of perjury and it should so state even when produced electronically.

It was determined that records retention for license renewals should be 7 years.

The Kaplan acquisition of Insurance Institute of Medway will be listed on the Division’s website.

The proposed letter to licensees re automatic discount is to be included with the same mailing of the ruling on paint & material.

Future Meeting Dates

November 8, 2005

December 14, 2005