



## THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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RICHARD STARBARD  
WILLIAM E. JOHNSON  
SAMANTHA L. TRACY  
PETER SMITH

**Minutes of Meeting of the Board held on November 18, 2020, Approved by the Board at the January 27, 2021, Board Meeting; Motion of Board Member William Johnson and Seconded by Board Member Richard Starbard. The Motion Passed by a Vote of: 4-0, with Chairman Michael D. Donovan Abstaining.**

November 18, 2020, Minutes of Board Meeting

**Held by Teleconference at 1000 Washington Street, Boston, Massachusetts in accordance with Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020.**

**Members Present by Teleconference:**

Chairman Donovan  
Samantha Tracy  
William Johnson  
Richard Starbard  
Peter Smith

**Attending to the Board:**

Michael D. Powers, Counsel to the Board

**Call to Order:**

Chairman Donovan, who was located at 1000 Washington Street, Boston, Massachusetts called the meeting to order by stating he was at 1000 Washington Street with Michael D. Powers, Counsel to the Board, and called for a roll call of the Board Members attending by teleconference. Board Members Samantha Tracy, William Johnson, Richard Starbard, and Peter Smith all acknowledged that they were present by teleconference. Chairman Donovan thereupon made the following statement:

In accordance with Massachusetts General Laws Chapter 30A, §§ 18-25 and Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020, the Auto Damage Appraiser Licensing Board (ADALB or Board) is holding this meeting by teleconference today, November 18, 2020 at 11:00AM from 1000 Washington Street, Boston, Massachusetts. Because of an Order issued by Governor Charles D. Baker on March 16, 2020, gatherings of over 25 people are prohibited and, therefore, members of the public will not be allowed to attend in-person. The public has been invited to join-in the

teleconference meeting by dialing the “Participants” telephone number at: 1-877-820-7831 and entering the Passcode 623523#.

**For approval, the Board minutes for the Board meeting held on October 14, 2020:**

Chairman Donovan read the first item on the Board’s agenda and called for a motion for approval of the Board minutes of the October 14, 2020, Board meeting. Board Member William Johnson made a motion to approve the Board minutes of the October 14, 2020, Board meeting and the motion was seconded by Board Member Peter Smith. The motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

**For discussion by the Board, a proposal submitted by Board Member William Johnson to adopt the following standard of review of applicants for motor vehicle damage appraiser license whom disclose a criminal conviction or pending criminal action on the license application for motor vehicle damage appraiser:**

DRAFT 10/29/20 WEJ

Standard of review to obtain an Auto Damage Appraisers License

The Auto damage Licensing Board has adopted a standard of review to clarify

212 CMR 2.02 definition of: good moral character

212 CMR: AUTO DAMAGE APPRAISERS LICENSING BOARD 2.02: continued

(2) Qualifications for a License. Any applicant for a license shall be 18 years of age or over and of good moral character. He or she shall furnish satisfactory proof to the Board that he or she possesses the educational qualifications required for graduation from high school or that he or she possesses relevant work experience deemed satisfactory by the Board. No applicant shall be considered competent unless the applicant has assisted in the preparation of appraisals for at least three months under the close supervision of a licensed appraiser. He or she shall complete an approved appraisal course or at the Board's discretion work experience may be substituted for said schooling.

*Standard of Review*

*No applicant for an Auto Damage Appraiser License may obtain such license if there is any criminal conviction or has a pending case within the last (7) years, involving stolen or embezzled vehicles, fraud related to the automotive repair and towing business, stolen property, crimes against morality or crimes against the person.*

Nothing herein is intended to create any obligations in addition to those set forth in 212 CMR 2.00 or 211 CMR 133.00. If anything, herein is in conflict with these regulations, the regulations control.

Pursuant to its authority, the ADALB voted by a majority vote at the Board’s meeting held on xxxxxxxxx, 2020, to adopt this Standard of Review. 3

This Standard of Review shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website.

For the ADALB,

Michael D. Powers, Esq. Legal Counsel to the Board

Board Member Johnson informed the Board that he has been a Secretary, for several years, of a trade group representing towing companies and the proposed standard is one that is used by towing companies in Massachusetts as required by the Massachusetts State Police.

Chairman Donovan read Board Members Johnson's proposal for establishing standards for applicants seeking a motor vehicle appraiser license and opened the issue for discussion. Board Member Johnson stated, although this standard is currently required for towing contractors and tow truck drivers, he has a problem with the category of restricting applicants based on "pending cases" that were brought against them over the previous seven years. Board Member Johnson asserted, nevertheless, he felt that the Board needed to establish some standards for applicants applying for motor vehicle damage appraiser licenses and currently there are none.

Board Member Samantha Tracy agreed with Board Member Johnson by stating that there should be some standards or guidelines and cases that are pending against applicants should not be an absolute preclusion for holding a motor vehicle damage appraiser license.

Board Member Johnson raised an additional issue about the legal term of "crimes against morality" and informed the Board that he researched the issue and there is a state criminal statute defining crimes against morality and it provides an extensive list of such crimes including the crime of polygamy. Board Member Johnson requested the input of Board Legal Counsel Michael Powers about the issue.

Mr. Powers responded that several years ago he conducted a review of the motor vehicle damage appraiser application and at the time applicants were directed to disclose convictions for all crimes including any misdemeanor convictions. As a result of that review, he determined that there should be some relationship between the crime and the position, and recommended that the application be changed by changing the request for all convictions, to the current language contained in the application which excludes misdemeanor offenses and any juvenile record; at the time the Board approved the change. He agreed with Board Member Johnson about some relationship between the crime and the position or duties and responsibilities of motor vehicle damage appraiser and did not see such a relationship for the crime of polygamy as a reasonable preclusion from performing the duties and responsibilities of motor vehicle damage appraising.

Board Member Peter Smith asserted that if we are about to make changes to the application, we should also be looking at the renewal application for licensed motor vehicle damage appraisers.

Chairman Donovan requested Legal Counsel Powers review the proposal, the legal elements of crimes against morality and the relationship to qualifications of applicants for motor vehicle damage appraiser license.

**Proceedings recorded by:**

At the conclusion of the discussion, Chairman Donovan requested that those members of the public who were recording the proceedings identify themselves and the following people did so: Chris Gervais of MAPFRE (Audio), Evangelos Papageorg, Executive Director of the Alliance of Auto Service Providers of Massachusetts (AASP) (Audio), Joel Gausten of GRECO Publishing (Audio), and James Steere of The Hanover Insurance Company (Audio).

**Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser held on October 24, 2020, at the Progressive Insurance Service Center in Westwood, Massachusetts:**

Board Member Peter Smith informed the Board that the Part-II examination was held at the Progressive Insurance Service Center in Westwood, Massachusetts on Saturday, October 24, 2020. Because of the COVID-19 pandemic, Board Member Smith, working with Eric Landry of Progressive Insurance, Sue Conena, Ryan Sarsfield of Mapfre Insurance, and James Steere of The Hanover Insurance Company, collaborated in administering the test within guidelines for conducting the Part-II examination to comport with Governor Baker's Emergency COVID-19 Orders and the guidelines issued by the United States Centers for Disease Control and Prevention. There were 70 applicants scheduled to take the examination and it was determined to conduct the test in three different sessions throughout the day. The first session for the test began at 8:30AM and concluded at 11:00AM, the second session began at 11:30AM and concluded at 2:00PM, and the third session began at 2:30PM and concluded at 5:00PM. All the applicants remained in their motor vehicles during the examination process to maximize social distancing standards and reduce the spread of the COVID-19 disease. Only 56 test takers appeared for the Part-II examination and Board Member Smith opined that the number was probably reduced from the original 70 because of the escalation of the number of confirmed cases in Massachusetts because of the COVID-19 pandemic. Board Member Smith reported, 46 people passed the examination which is consistent with overall pass/fail rates of prior examinations and that the next test was tentatively scheduled for December 19, 2020 at Progressive's facility in Westwood; he and his team were collaborating on scheduling the examination.

Board Member Starbard asked what was the scheduled time for beginning the examination, and Board Member Smith replied that he was working putting together two separate sessions for the December 19<sup>th</sup> exam, the first beginning at about 8:00-8:30AM and the second around 11:30AM. Board Member Starbard said that he would be available on the day of the next scheduled exam and would attend and assist with administering the examination.

Chairman Donovan thanked Board Member Smith for his professionalism in putting together an examination process in conformance with state and federal COVID-19 guidelines during the deadly pandemic and doing so in such an expeditious manner.

**For approval, submitted by the Board Legal Counsel to the Board, an Order to Show Cause based on the pleas entered on September 21, 2020, in the United States District Court for Massachusetts before Judge Timothy S. Hillman, by licensed motor vehicle**

**damage appraiser Adam Haddad to three counts of: Aiding Preparation of False Tax Returns (26 U.S.C. § 7206(2)):**

Board Legal Counsel, Michael D. Powers, reported that licensed motor vehicle damage appraiser Adam Haddad plead guilty in the United States District Court to three counts of Aiding Preparation of False Tax Returns in violation of 26 United States Code § 7206(2). An Order to Show Cause was placed on the agenda for the meeting for the Board's review and approval and Legal Counsel Powers informed the Board that he proposed the draft Order to Show Cause with the following amendments that are bolded below in the Order to Show Cause:

COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF INSURANCE  
AUTO DAMAGE APPRAISER LICENSING BOARD

SUFFOLK, ss

Docket No. ----

_____	)	
AUTO DAMAGE APPRAISER	)	
LICENSING BOARD	)	
Petitioner,	)	
	)	
v.	)	<b><u>PROPOSED</u></b>
	)	<b><u>ORDER TO SHOW CAUSE</u></b>
ADAM HADDAD,	)	
Respondent.	)	
_____	)	

Pursuant to the Massachusetts General Laws ("M.G.L.") 26, § 8G and 801 C.M.R. 1.01(6)(a), the Respondent is hereby ordered to show cause why the Auto Damage Appraiser Licensing Board, an agency in the Division of Insurance, ("ADALB" or "Board") should not make a determination, after hearing, that the Respondent has violated the provisions of the Commonwealth's motor vehicle damage appraiser laws, as specified herein, and that the Petitioners' prayers for relief be allowed.

**JURISDICTION AND PARTIES**

1. The ADALB is a regulatory agency, in the Division of Insurance, as established by the law of the Commonwealth of Massachusetts with jurisdiction to license individuals to appraise damage to all motor vehicles arising out of motor vehicle damage claims which shall include, but not be restricted to, any set of circumstances for which claims made be made for damage to a motor vehicle, and regulating licensed motor vehicle damage

appraisers as provided in M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq., 211 CMR 123.00 et seq., and 211 CMR 133.00 et seq.

2. Pursuant to M.G.L. c. 30A and M.G.L. c. 26 § 8G, the ADALB has authority to conduct adjudicatory hearings and to order the revocation, cancellation or suspension of the licenses they issue, as well as to levy administrative costs against such licensee, as set forth in M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq.
3. According to ADALB licensing records, Respondent Adam Haddad (“Haddad”) has a business and mailing address of 1051 Millbury Street, Worcester, Massachusetts 01607. Haddad also has a business address located in Everett, Massachusetts at 36 Mystic Street, Everett, Massachusetts 02149 and is doing business as Accurate Insurance Inc.
4. According to ADALB licensing records, Haddad first was licensed as a motor vehicle damage appraiser by the ADALB under M.G.L. c. **26** § 8G on May 5, 1998 and Haddad’s license remains active.

### **STATEMENT OF FACTS**

5. On or about September 21, 2020 in the United States District Court for Massachusetts, Haddad appeared before Judge Timothy S. Hillman and plead guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) (A copy of the “Information” or indictments and record of pleas is hereto attached and incorporated as Exhibit “1”).
6. The guilty pleas to the offenses directly arose out of Haddad’s auto body repair business which he owns and is named Accurate Collision Inc. and the fraudulent payment of employees’ taxable wages and other compensation for the purposes of operating such business. According to the Information, on several different occasions, Haddad paid employees “under the table” **to fraudulently reduce the federal income tax he was**

**obligated pay to the United States Internal Revenue Service. In the years 2015, 2016, and 2017, HADDAD caused Accurate to file IRS Forms 941 that he knew were false in that they underreported the employees' wages and the employment taxes due to avoid paying the real amount of taxes that were due.**

7. Pursuant to M.G.L. c. 26, § 8G, licensed motor vehicle damage appraisers are to be of good moral character, and, therefore, shall conduct their business affairs in an honest manner. By pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) as stated in the Information or indictment filed against him, Haddad violated this provision of the statute.
8. Chapter 26, § 8G also provides in relevant part “[T]he board, after due notice and hearing, shall cancel for a period not exceeding one year, any license issued by it to, and cancel the registration of, any person who has been shown at such hearing to have been guilty of fraud, deceit, gross negligence, incompetence or misconduct....” By pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2), Haddad violated this provision of the statute.

#### **FIRST CLAIM**

9. Petitioner repeats and reincorporates paragraphs 1 through 8 as if set forth fully again herein.
10. Haddad’s conduct as fully described in the Information in Exhibit 1 was directly related to his business as an auto body repair shop and as a motor vehicle damage appraiser and by pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) Haddad has engaged in bad moral conduct in violation of Chapter 26 and, therefore, is not a suitable person to be licensed by the ADALB.

#### **SECOND CLAIM**

11. Petitioner repeats and reincorporates paragraphs 1 through 10 as if set forth fully again herein.
12. Haddad's conduct as fully described in the Information as set-out in Exhibit 1 was directly related to his business as an auto body repairer and a motor vehicle damage appraiser and by pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) Haddad has engaged in misconduct that violates the provision of Chapter 26, Section 8G and Haddad has in fact admitted guilt to conduct that is considered "fraud, deceit, ... or misconduct..." in violation of said statute.

### **RELIEF**

WHEREFORE, the Petitioner respectfully requests the Board make the following findings and enter the following orders:

1. Find as fact the allegations set out in this Order to Show Cause.
2. Find that Haddad, by his conduct as set forth in paragraphs 1-8, including, but not limited to, his pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) violated M.G.L. c. 26, § 8G and 212 CMR 2.02(2) in that he is not of good moral character and, therefore, is not qualified to be licensed as a motor vehicle damage appraiser in the Commonwealth of Massachusetts **and revoke his license and assess administrative costs pursuant to 212 CMR 2.05.**
3. Find that Haddad, by his conduct as set forth in paragraphs 1-8, including, but not limited to, his pleading guilty to three **felony** counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2) violated M.G.L. c. 26, § 8G and his admission to such



conduct is considered fraud, deceit, or misconduct in the course of his auto body repair business that directly involves his licensure as a motor vehicle damage appraiser.

4. Order Haddad to cease and desist from the conduct alleged in the Order to Show Cause.
5. Order the revocation of Haddad's motor vehicle damage appraiser license for violations that Haddad committed under M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq. as provided for under M.G.L. c. 26, § 8G, ~~and~~ 212 CMR 2.02(8) **,and as provided for in 212 CMR 2.05.**
6. In the alternative, Order the maximum time for the cancellation or suspension of Haddad's motor vehicle damage appraiser license for each and every **felony violation that Haddad committed by his pleading guilty to three counts of Aiding Preparation of False Tax Returns in violation of 26 U.S.C. § 7206(2), pursuant to** M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq. as provided for under M.G.L. c. 26, § 8G and 212 CMR 2.02(8), and that Haddad serve each cancellation or suspension of his motor vehicle damage appraiser for a separate period of time on and after each cancellation or suspension.
7. Order Haddad to submit any and all Massachusetts insurance licenses in his possession, to the ADALB.
8. Prohibit Haddad from directly or indirectly transacting any motor vehicle damage appraisals in the Commonwealth of Massachusetts in any capacity until and unless properly licensed by the Board.
9. Assess administrative costs against Haddad for each and any every violation of M.G.L. c. 26, § 8G pursuant to 212 CMR 2.05.

10. Order that any administrative costs assessed against Haddad be paid within 30 days from the date ordered.
11. Enter any further orders as are deemed just and fair.

Respectfully submitted,  
Auto Damage Appraiser Licensing Board,  
By its Attorney,

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Counsel to the Commissioner  
Massachusetts Division of Insurance  
1000 Washington Street, Suite 810  
Boston, MA 02118-6200

Dated: November \_\_, 2020

Chairman Donovan called for discussion among the Members of the Board. Board Member Starbard asked why the discussion about the draft Order to Show Cause was not conducted in the executive session. Legal Counsel Powers informed the Board that the process is the same that has been used in the past when the Board approved an Order to Show Cause, and it was consistent with the Office of Attorney General's decision in a complaint brought against the Board for discussing an Order to Show Cause during an executive session [OML 2017-72] and, as a result, the Board was ordered in the future to conduct such discussions in the public session.

Chairman Donovan called for a motion to approve the draft Order to Show Cause as presented to the Board, Board Member William Johnson made the motion to approve the draft Order to Show cause, which was seconded by Samantha Tracy, the motion passed by a vote of: 5-0.

**For discussion by the Board, a proposed Advisory Ruling submitted by Board Member William Johnson, which is the following:**

**ADALB ADVISORY RULING REGARDING RECEIPT REQUIREMENTS.**

The purpose of this Advisory Ruling is to codify a previously unanimously agreed upon position stated in an ADALB letter written April 8, 1992 to Guy Crosby, Claims Manager of Aetna Life & Casualty. The letter specifically addressed the practice of requiring receipts be submitted prior to agreed upon replacement parts being paid for on a vehicle damage claim under the direct payment plan as outlined in 211 CMR 123. It clearly stated that this practice was prohibited under the direct payment plans.

***Proposed Advisory Ruling 2020-2***

Pursuant to its authority, The ADALB voted by majority vote at the Board's meeting held on (DATE), to adopt this Advisory Ruling.

**ADIVSORY RULING**

All licensed appraisers should continue to follow 211 CMR 133 and 212 CMR 2.0 in its entirety as it pertains to the estimating and writing of a complete appraisal and repair of a damaged motor vehicle. As stated in 212 CMR 2.04 (e) "The appraiser shall itemize the cost of all parts, labor, materials, and necessary procedures required

to restore the vehicle to pre-accident condition and shall total such items.” All parts required for repair shall be listed on the appraisal. At not time will the decision to make payment for parts be made based upon the submission of receipts. As stated in 212 CMR 2.04 (e) “No appraiser shall modify any published manual (i.e. Motors, Mitchell or any automated appraisal system) without prior negotiation between the parties.”

In the instance that a parts price is not available at the time of the preparation of the estimate, an approximate price shall be agreed upon. If the agreed upon amount is insufficient, a parts price increase supplement shall be submitted with documentation attached in the form of a paid receipt. The cost indicated on the receipt will be subject to a reasonable standard industry mark up.

Chairman Donovan read the above item as it was submitted and asked Board Member Johnson to explain the item. Board Member Johnson asserted that the regulation is straight forward and this issue was addressed many years ago by a previous Board which ordered the insurance company to make payment without requiring an appraiser to provide receipts for the parts that were negotiated under the appraisal. Mr. Johnson stated that in a perfect world there would be no need for this proposed Advisory Ruling. Receipts should be required for PPI’s from part prices that are in the book. The supplement appraisal should be treated like an original where receipts are not needed.

Board Member Samantha Tracy stated that the prices of the parts are listed in the books, if the agreed upon amount of the price for a part is insufficient, then the parties need to state the same during the negotiation. If the agreed amount is insufficient and you come to an agreement, the shop presents a receipt. Board Member Tracy questioned: Is the price paid included in the mark-up or not and would there be double dipping?

Board Member Peter Smith asserted that he knew of a manufacturer of Original Equipment Manufacturer parts moving away from publishing prices because of the difference between the constant fluctuation in market prices and the list prices in their database. He has found that prices can fluctuate between the time of the original appraisal and a supplemental appraisal. Moreover, the manufacturers are not documenting or recording the price changes and he recommended that appraisers should make sure they are not closing the door before they receive the invoices for the parts.

Mr. Starbard stated some receipts will show cost and list price and the way it was written is unclear. Mr. Starbard stated that cost to the shop could be used in place of the current language. Also, if the agreed upon amount is insufficient, a part price increase “may be” vs “shall be” submitted with documentation. Board Members Johnson stated that based on the DPP, the damage is agreed upon, and the customer does not want a part replaced and the appraiser demanding a receipt.

Board Member Peter Smith asked if the draft is clear enough to address parts which have no price. Mr. Starbard stated if the price were zero, the price would need to be researched. Mr. Johnson stated this is common on heavy equipment and Mr. Starbard stated it would be the same for exotic vehicles. Board Member Smith asked what if the shop and the appraiser obtain two different prices? Mr. Johnson stated that this does not

play into the CMR. Mr. Starbard suggested this could be part of the last line of the advisory ruling. Chairman Donovan was advised by Attorney Powers that the discussed changes need to be sent to Attorney Powers and discussed at the next meeting following common procedures used by the Board for adopting proposed Advisory Rulings.

Chairman Donovan said that before the Board proceeds any further the final proposed Advisory Ruling should be posted and comments from the auto body industry should be reviewed. He asked Legal Counsel Powers' opinion about the procedure. Mr. Powers stated that the procedure used by the Board is: for a discussion by the Board about the proposed Advisory Ruling, agreement among the Board on the terms of the proposal, and after the Board agrees upon the final proposal, the proposed Advisory Ruling is posted on the ADALB's website so that comments can be made by all interested parties and, thereafter, the comments are reviewed and considered by the Board. After the comments are reviewed by the Members of the Board and any amendments are proposed, the final Advisory Ruling is voted upon.

Chairman Donovan thanked Legal Counsel Powers and requested Board Member Johnson to forward the proposal to Mr. Powers.

**Proposal submitted by Board Legal Counsel, Michael D. Powers, to amend the ADALB's Guidelines for Complaint Procedures to allow for a review of complaints filed against licensed motor vehicle damage appraisers by the Board reviewing the complaints and any responses to them while waiving the attendance at the Board meeting of the licensed motor vehicle appraiser. Also, a procedure for conducting remote Board meetings by audio teleconference and/or video conference including reviews of complaints and hearings on complaints. The proposed amendments would amend Sections 1, 3, and 8 by adding the following bolded language to Sections 1, 3, and 8:**

1. Notice to Licensed Appraiser. When a complaint (Complaint) is received by the executive secretary (Executive Secretary) to the Auto Damage Appraiser Licensing Board (ADALB or Board) alleging a licensed motor vehicle damage appraiser (appraiser) has violated the ADALB's enabling act M.G. L. c. 26, § 8G and/or regulation 212 CMR 2.00 et seq. as provided for in the ADALB's "Application for Complaint", and/or violates 211 CMR 123.00, 211 CMR 133.00 it is assigned a serial number in the order received prefixed by the year of the date of the complaint. At least 21 days before the following scheduled Board meeting, the appraiser, named in the Complaint, is sent a copy of the Complaint, and a letter notifying him/her of the date of the Board meeting and the rights provided under M.G. L. c. 31, § 21 (a)(1) that he/she has a right: whether to have the discussion of the matter heard during the public session of the Board meeting, or during the executive session of the Board meeting to which the public is not allowed to attend; to speak on his/her own behalf; to have an attorney or representative of his/her choosing attend the Board meeting to advise him/her at own expense but the attorney or representative will not be allowed to participate at the Board meeting; and to create an independent record by audio-recording or transcription of the executive session of the meeting at his/her expense. Aside from an individual's right to participate in a discussion about that individual, participation of other people during an executive session is within the Board's

discretion. *See* the Office of Attorney General's Decisions on the Open Meeting Law OML2013-141, OML 2016-06, **OML-2019-159**, and M.G.L. c. 30A, § 20(g).

Thereafter, a copy of the letter and Complaint is forwarded to the members of the Board and placed on the agenda for the next Board meeting. A copy of the letter is also sent to the complainant. **The Board can also allow an appraiser an option to waive his appearance before the Board by notifying the appraiser in writing that he must submit a written response to the Complaint, agree to waive his appearance, and notify the Board whether he would like the Board to conduct the review in the executive session or the public session. Whenever such an option is allowed by the Board, the Board can review the complaint and the appraiser's written response to it and either dismiss the complaint or notify the appraiser that he is required to appear at the next meeting of the Board.**

3. Preliminary Review of the Complaint. The Board conducts a preliminary review of the Complaint at the Board meeting, either in the executive or public session of the Board meeting as requested by the appraiser, to determine whether to dismiss the matter or pursue further action. **The preliminary review by the Board may be conducted by teleconference or video conference with written notice sent to the appraiser.**

8. Board's Decision to Proceed. If the decision is to proceed, the Board will notify all parties that there will be a formal hearing, and the format of the matter will be an Order to Show Cause why the action should not be taken against the appraiser in the form of: Auto Damage Appraiser Licensing Board v. Named Appraiser. After the Board approves an Order to Show Cause the Board will forward it to the Office of the General Counsel for the Division of Insurance for assignment of an enforcement counsel who will prosecute the matter. The Board shall conduct the hearing in accordance with the State Administrative Procedures Act and the Standard Adjudicatory Rules of Practice and Procedure set forth in M.G.L. c. 30A and 801 CMR 1.00 et seq. The Board may hear the matter as a full body or appoint one member of the Board as Presiding Officer in accordance with the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00. **The Board may conduct these proceedings by teleconference or video conference with written notice sent to the appraiser.** If the full Board chooses to hear the case, the Chair of the Board, or in his/her absence the Board member with most seniority based on length of service as a member of the Board, will oversee the conduct of the hearing, administer oaths or affirmations to witnesses, declare final decisions about objections to evidence, resolve issues about procedure, and maintain the decorum of the hearing. Legal Counsel to the Board shall act as clerk of the administrative hearing, maintain exhibits and other documents filed during the hearing, and provide counsel to the Board on any legal issues that arise during the course of the hearing, draft legal rulings and the final decision for the Board's approval.

Legal Counsel to the Board, Michael D. Powers, informed the Board that he drafted amendments to the Board's Guidelines for Complaint Procedures to allow for a review of complaints filed against licensed motor vehicle damage appraisers by teleconference, video conference, or by a documentary or administrative review. He informed the Board that the IT Department for the Commonwealth recently upgraded his computer for use of the Microsoft Team Works software, which the Commonwealth of Massachusetts uses for

videoconferencing. He informed the Board that, if the Board approved the draft amendments, he would draft a standard form letter to send to licensed appraisers to agree to have the Board review the complaint based on the documents submitted with the complaint and an appraiser's response and present the draft letter at the next meeting.

Board Member Peter Smith made the motion to approve the amendments and the motion was seconded by Board Member Johnson, the motion passed by a vote of: 4-0.

**Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda:**

**Motion to adjourn:**

Chairman Donovan asked for dates for the next scheduled meeting and the consensus was to schedule the next meeting on January 19, 2021 at 11:00AM. Chairman Donovan called for a motion to adjourn the meeting, Board Member Richard Starbard made the motion, and the motion was seconded by Board Member Johnson and the Chairman called for a roll call vote with the motion passing by a vote of: 4-0 with Chairman Donovan abstaining.

Whereupon the Board's business was concluded.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a)