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## THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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MICHAEL DONOVAN, CHAIRMAN  
WILLIAM E. JOHNSON  
PETER SMITH  
CARL GARCIA

**Minutes of the Meeting of the Board held on June 25, 2024, and approved at the Board Meeting held on September 19, 2024; Motion of Board Member William Johnson, Seconded by Board Member Carl Garcia with Chairman Michael Donovan Abstaining. The Motion Passed by a Vote of: 4-0, with Chairman Donovan Abstaining.**

Minutes of the Board Meeting held on June 25, 2024

The Auto Damage Appraiser Licensing Board (ADALB or Board) held a meeting on June 25, 2024, at 1000 Washington Street, Boston, Massachusetts.

### **Members Present:**

Chairman Donovan  
William Johnson  
Peter Smith  
Carl Garcia  
Vicky Ye

### **Attending to the Board:**

Michael D. Powers, Counsel to the Board

### **Call to Order:**

Chairman Michael Donovan called the meeting to order at 10:00AM with a roll call vote and the other four Board members responded present.

Chairman Donovan asked that those recording the proceedings to identify themselves and state with whom they were affiliated. Those responding to the Chairman's request were: James Bates of Mapfre/Commerce Insurance and "Lucky" Papageorg of the Alliance of Automotive Service Providers of Massachusetts (AASP).

In attendance were: Lucky Papageorg, AASP/MA Executive Director, members of MAPFRE/Commerce Insurance Company, James Bates, Sue Conena, and Ed Jankowski. Larry Konstant of Metropolitan Appraisal Service and Patrick Murphy the owner of Mass Ave. Towing, Pit-Stop Auto Solutions, and Half Moon Mods LLC. Also, in attendance was Massachusetts Insurance Federation Executive Director, Christopher Stark. Mr. Michael Parsons affiliated with Source One Financial, was also in attendance.

**Approval of the Board minutes for the Board meeting held May 14, 2024:**

Chairman Donovan requested a motion to approve the minutes, Board Member William Johnson made the motion to accept the minutes as presented, and Board Member Carl Garcia seconded the motion. The motion passed by a roll call Vote of: 4-0, with Chairman Donovan abstaining.

**Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser:**

Chairman Donovan requested Board Member Peter Smith provide a report about the Part-II portion (practical portion of the two-part examination) of the examination for motor vehicle damage appraiser license. Mr. Smith reported that the examination was held on Saturday April 22, 2024, at the Progressive Insurance facility in Westwood. Board Member Smith reported that there were 79 applicants scheduled and 70 attended, with 61 passing and 9 failing. Board Member Smith noted that there were 9 no-shows which were determined to be out of state applicants. Board Member Carl Garcia stated that the applicants who failed the examination seemed to have a common denominator, they had taken the motor vehicle damage appraiser course some time ago and the passage of time was too long and had an impact on an applicant's ability to recall the course material for a successful examination result. Board Member Garcia reported that in conversations he had with some of the applicants, he advised them to review the class literature during the required six-month waiting period for retaking the examination (as required by the Auto Damage Appraiser Licensing Board's enabling act, M.G.L. c. 26, § 8G). Board Member Smith reported that Rober Hunter of the Division of Insurance Licensing Section will delay the issuance of the motor vehicle damage appraiser licenses for those who passed the examination until after July 1, 2024, as an accommodation to the new licensees to prevent them from having their new license expire just days after issuance. Board Member Smith stated that this was one of the largest groups taking the examination in quite some time, and things went very smoothly because of the assistance of those people who volunteered to help proctor the examination. Chairman Donovan thanked Board Member Smith for his excellent efforts and the people in the auto insurance industry who assisted him in conducting the examination.

**Request to approve a course of instruction for motor vehicle damage appraisals by Lucky Papageorg, Executive Director of the Alliance of Automotive Service Suppliers of Massachusetts:**

Chairman Donovan read the agenda item, and Board Member Carl Garcia asked whether the Blue Hills course was already approved, because the Blue Hills Regional Technical School course is the same as the one Mr. Papageorg submitted. Chairman Donovan sought input from the other Members of the Board. Board Member Johnson reminded the Board that the course is the same which was authorized by the Board on January 27, 2017, for use by the Springfield Technical Community College and a course formally taught at Blue Hills Vocational and Technical High School. Mr. Johnson moved to approve the course to be taught by Mr. Papageorg's sponsored by AASP/MA, and Board Member Garcia seconded the motion. Chairman Donovan called for a motion to approve the course, Board Member Johnson made the motion, it was seconded by Board Member Carl Garcia, and the motion passed on a roll call vote of: 4-0, with Chairman Donovan abstaining.

**Update on status of proposed amendments to the ADALB's Regulation, 212 CMR 2.00 et seq. The newly constituted Board, with new Board Members Carl Garcia and Vicky Ye and Peter Smith (reappointed) appointed by Governor Maura Healey, will consider proposed amendments to the Board's Regulations 212 CMR 2.00 et seq. The process began by the Board reviewing the proposed amendments that were approved by the previously constituted Board that concluded at the Board meeting held on July 19, 2022:**

Chairman Donovan requested an update on the progress of the proposed amendments from the Members of the Board. Board Member Peter Smith informed the Board that he would submit proposed amendments but needed to be certain that the "Definitions" section of the Board's Regulation was accurate and suggested the Board begin the process by discussing the definitions which needed discussion. Board Member Smith began by presenting the definition in the Board's Regulation 212 CMR 2.00 et seq. of "Approved Appraisal Forms." Board Member Smith noted that no longer are "forms" in use in the auto body industry but instead platforms are used for motor vehicle damage appraisals which are written with or on them. Board Member Smith suggested replacing the term "forms" with a new term "systems" and Board Member Johnson readily agreed by stating that an "appraisal" should be redefined as "itemizing the cost of repairs." Board Member Smith reminded the Board that electronic appraisals are the most prevalent process in the auto body damage repair industry and the use of them does not require a signature or stamp, as was the case when printed forms were used in the auto body industry. Board Member Garcia noted that the writer of the document appraising a damaged motor vehicle must be clearly identifiable so that the reader of the document can understand who the responsible party is. Board Member Johnson stated that the term "form" which is no longer in use must be removed from the Definitions section and reference should be made to 212 CMR 2.00 as well as Chapter 26, Section 8G for a definition of "Appraisal". Board Member Johnson also noted that the definition of "appraisal" indicates "parts & labor" without mentioning "materials." The consensus of the Board was that the term "appraisal" will omit the reference to the term "form" and reference to M.G.L. c. 26, Section 8G as well as 212 CMR 2.00 will be added. Board Member Smith next addressed the term "Board" and suggested that there be no changes beyond what is currently stated in the Board's Regulation and continued to the word "Claimant", and also recommended no changes.

Board Member Smith moved on to the next definition in the Board's Regulation, "Independent Appraiser" and began the discussion by asking whether the term should include "self-insurers." Board Member Johnson noted that the Board does not have jurisdiction over self-insured entities, because they are private businesses that do not involve the general public. Board Member Garcia pointed out that in his business dealings with self-insured rental companies, there are no "estimates" only final bills. Board Member Smith asked what happens when a complaint comes before the Board involving a self-insured entity. Board Member Garcia responded that the Board would dismiss it, the Board has no oversight over such private business transactions and Board Member Smith agreed to revise the definition. Board Member Smith moved on to the definition of "Insurer" and suggested input should be provided from the Division of Insurance and asked Board Legal Counsel Michael D. Powers who would be the best person to contact at

the Division of Insurance and Legal Counsel Powers informed Board Member Smith that attorney Mary Ellen Thompson would be a good source. Board Member Johnson stated that out of state insurers need to be reined in. Board Member Smith moved to the next definition in the Regulation, “Intensified Appraisal” and suggested no changes needed to be made. The next definition is “Staff Appraiser” Board Member Johnson queried whether he could consider his appraisers as Staff Appraisers and Board Member Smith responded that they are more like “independent appraisers.” Board Member Smith moved to the definition of “Repair Shop” and Board Member Garcia noted that dealerships are not registered repair shops even though insurance carriers make payments for insurance claims regularly. Board Member Johnson noted that supplements are not negotiated in those instances. Board Member Garcia asked whether licensed appraisers working for dealerships, are still regulated by the Board. Board Member Smith quoted the Board’s Regulation which states in relevant part, “[s]hall not knowingly negotiate with an unlicensed person or unregistered shop.” Lucky Papageorg asked permission to speak, and Chairman Donovan granted permission. Mr. Papageorg stated that it is the insurance company making payment for the cost to repair the damage to the motor vehicle in possession of the dealership. Board Member Carl Garcia noted that it is the insured who is more likely reimbursed for payments made by them to a dealership, not a direct payment from an insurance company to a dealership. Board Member Johnson stated that insurance companies’ Preferred shops are breaking the law by repairing a damaged motor vehicle as it is written by an insurance carrier, omitting the vehicle owner from the equation. Board Member Smith noted that he felt no changes were needed for this definition and reported that he will submit the proposed changes in time for review at the next scheduled meeting which will proceed with the next section of the Board’s Regulation.

**Next meeting date:**

Chairman Donovan requested a consensus on the date for the next meeting and the Board agreed to Thursday, September 19, 2024. Chairman Donovan announced the date and reminded those in attendance that the meeting will take place at 10AM, 1000 Washington Street, Boston. Chairman Donovan called for a motion, and it was moved by Board Member Smith and seconded by Board Member Garcia, the motion passed with a vote of: 4-0, with Chairman Donovan abstaining.

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

The was no discussion by the Board about any such business.

**Review of Complaints:**

Review of Complaints: 2024-14, Complaint 2024-15, Complaint 2024-16, Complaint 2024-17, Complaint 2024-18, Complaint 2024-19, Complaint 2024-20, and Complaint 2024-21. The review will be conducted on the written complaints that were submitted by the complainants to determine whether the Board will move to the next step in the Board’s “Complaint Procedures.”

**Complaint 2024-14** The complaint was filed by a consumer, involved a delay in the completion of a supplement for repair of the damage to the motor vehicle. Board Member Smith noted that

there was no supplemental appraisal filed with the documents supplied to review, only an original appraisal. Board Member Garcia noted the complainant may mis-state a reference to a supplement and may be based on the delay for the original estimate. Board Member Garcia noted the date of loss was November 22, 2023, and the date of the completed estimate is December 12, 2023, but there is no understanding when the assignment was made to the appraiser. Board Member Garcia also noted that in his experience with this insurance carrier provided him some insight in its standard operating procedures whereby they call the customer, tell the customer to bring the car to their repairer, and then wait for a week or two prior to going out to see and appraise the car. Ms. Ye wondered whether going by the date of loss makes any sense without knowing the date the claim was reported. Board Member Johnson made a motion to move the complaint forward to the next step in the Board's Complaint Procedures because he would like additional information and documents from the appraiser. Board Member Garcia seconded the motion. Chairman Donovan called for a roll-call vote and the vote was: Board Members Johnson and Garcia voted yes, Board Members Smith and Ye voted no, and Chairman Donovan voted no. The motion was defeated by a vote of: 3-2 and the complaint was dismissed.

#### **Complaint 2024-15**

Board Member Smith noted the complaint form was completely blank, not specifying the appraiser involved. Board Member Johnson stated that if you scroll down, you can glean information about the complaint from the attached documents. Board Member Smith responded that the Board must refer to the official written form filled in by the complainant against the licensed appraiser when considering any complaint and Board Member Smith made a motion to dismiss the complaint which was seconded by Board Member Ye. Chairman Donovan called for a roll-call vote with Board Members Johnson and Garcia voting no, Board Members Smith and Ye voting yes, and Chairman Donovan voting yes. The motion was defeated by a Vote of: 3-2, and the complaint was dismissed.

#### **Complaint 2024-16**

The complaint was brought by a motor vehicle repairer and Chairman Donovan queried the amount of money which was involved in the dispute over the repair. Board Member Johnson stated that all complaints are monetary, and Board Member Johnson made a motion to move the matter forward, which was seconded by Board Member Garcia. Chairman Donovan called for a roll-call vote and the vote was: Board Members Johnson and Garcia voting yes, Board Members Smith and Ye voting no, and Chairman Donovan voting no. The motion was defeated 2 in favor and 3 against, and the complaint was dismissed.

#### **Complaint 2024-17**

Board Member Johnson pointed out that the complaint stated that the ADAS Test Drive was not allowed for payment by the insurance company's appraiser. Board Member Smith made a motion to dismiss, and the motion was seconded by Board Member Ye. Chairman Donovan called for a roll-call vote and Board Members Johnson and Garcia voted no, Board Members Smith and Ye voted yes, and Chairman Donovan voted yes. The motion was defeated by a Vote of 3-2, and the complaint was dismissed.

### **Complaint 2024-18**

The complaint was filed by an appraiser employed by an auto body shop and the dispute was over the price offered by the insurance company's appraiser for motor vehicle scans. Board Member Smith made a motion to dismiss, and Board Member Ye seconded the motion. Chairman Donovan called for a roll-call vote and Board Members Johnson and Garcia voted no, while Board Members Smith and Ye voted yes, and Chairman Donovan voted yes. The complaint was dismissed by a Vote of: 3-2.

### **Complaint 2024-19**

The complaint was filed by an auto body shop over the price paid for clamp rental. Board member Johnson made a motion to move the complaint forward and Board Member Garcia seconded the motion. Chairman Donovan called for a roll-call vote and Board Member Johnson and Garcia voted yes, Board Members Smith and Ye voted no, and Chairman Donovan voted no. The motion was defeated, and the complaint was dismissed, by a vote of 2 in favor and 3 against.

### **Complaint 2024-20**

The complaint alleged that the appraiser's supervisor refused to come to the auto body repair shop for a second opinion on Like Kind and Quality (LKQ) for suspension system parts on the damaged motor vehicle which were listed within the appraisal report. The consensus of the Board was that the Board has no oversight over the process of second opinions. Board Member Johnson stated the shop should just refuse to make the repairs and Board Member Garcia observed that the complaint specified an objection to the use of LKQ suspension parts, but did not state the reason. Board Member Smith noted the report has LKQ parts as a "knee" and the crossmember. Board Member Smith made a motion to dismiss the complaint, and the motion was seconded by Board Member Ye. Chairman Donovan called for a roll-call vote and Board Members Johnson, Garcia, Smith and Ye voted yes. The chairman did not vote, and the motion to dismiss passed by a vote of: 4-0. The complaint was dismissed.

### **Complaint 2024-21**

This complaint involved the same insurance carrier as Complaint 2024-14 and Board Member Garcia pointed out a lengthy delay in the timing of the paperwork. Board Member Johnson made a motion to move the matter forward in order to collect additional documents and information and Board Member Garcia seconded the motion. Chairman Donovan called for a roll-call vote and Board Members Johnson and Garcia voted yes, and Board Members Smith and Ye voted no. Chairman Donovan voted yes, moving the complaint forward to the next step in the Complaint Procedures of the Board by a Vote of: 3-2.

A member of the audience, Mr. Michael Parsons sought to be recognized, and Chairman Donovan gave him permission to speak. Mr. Parsons asked the Board for an update on the complaint he filed against a licensed appraiser. Mr. Parsons stated he heard nothing about his complaint and believed it was languishing without action. Mr. Powers noted there were communications with the attorney for the licensed appraiser and he would request an update for

the Board. Mr. Parsons stated that the “excuse” attorney Callahan has used, saying that the underlying issue is being litigated was untrue, and that there is no litigation. Mr. Powers stated his communication with Mr. Callahan assured him there is in fact on-going litigation but will send a letter seeking an update and the Board moved on to the next item on the agenda.

**Executive Session:**

Legal Counsel Powers informed the Board that an applicant for the test for motor vehicle damage appraiser disclosed on his application that he was convicted of various crimes, provided a statement, and requested the Board review his criminal records, his statement, and determine whether the Board would allow him to take the tests. Legal Counsel Powers stated the request came to his attention after the agenda was posted and that there was an upcoming test that would be held very soon. Legal Counsel Powers read the Massachusetts law for entering an Executive Session in and stated such a review was allowed under the following provision of the law:

Such discussion during the executive session is allowed under M.G.L. c. 30A, §21(a)(1) and in accordance with the Office of the Attorney General’s Open Meeting Law (OML) decisions such as Board of Registration in Pharmacy Matter, OML 2013- 58, Department of Public Safety Board of Appeals Matter, OML 2013-104, and Auto Damage Appraisers Licensing Board Matter, OML 2016-6 and Auto Damage Appraisers Licensing Board Matter, OML 2019-50. Section 21(a) states “A public body may meet in executive session only for the following purposes: (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense. The rights of an individual set forth in this

paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

A motion was made by Mr. Garcia to enter the executive session including adjourning in the executive session, seconded by Board Member Smith. Chairman Donovan called for a roll-call vote with Board Members Johnson, Smith, Garcia, and Ye voting yes, and the motion carried by a vote of: 4-0 with Chairman Donovan abstaining.

During the executive session, the Board reviewed the applicant's statement and criminal records, discussed the applicant's background and documents filed. At the conclusion of the discussion a motion was made by Board Member Smith to allow the applicant to take the test and was seconded by Board Member Johnson, the motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

**Motion to Adjourn:**

Chairman Donovan called for a motion to adjourn, and Board Member Smith made the motion to adjourn, the motion was seconded by Board Member Garcia, Chairman Donovan called for a roll-call vote, and the motion passed 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).