



**THE COMMONWEALTH OF MASSACHUSETTS  
AUTO DAMAGE APPRAISER LICENSING BOARD**

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WILLIAM E. JOHNSON  
LYLE M. PARE

**Minutes of Meeting of the Board held on August 28, 2018, Approved by the Board at the  
October 11, 2018, Board Meeting; Motion of Board Member William Johnson and  
Seconded by Board Member Lyle Pare. The Motion Passed by a Vote of: 4-0, with  
Chairman Cox Abstaining.**

August 28, 2018, Minutes of Board Meeting  
Held at 1000 Washington Street, Boston, Massachusetts.

**Members Present:**

Chairman Cox  
Joseph Coyne  
William Johnson  
Richard Starbard  
Lyle Pare

**Attending to the Board:**

Michael D. Powers, Counsel to the Board  
Steven Zavackis, Executive Secretary

**Proceedings recorded by:**

Chris Gervais of MAPFRE (Audio/Video). Evangelos Papageorg, Executive Director of the Alliance of Auto Service Providers of Massachusetts (AASP), (Audio/Video). Joel Gausten of GRECO Publishing (Audio/Photo). Jim Steere of Hanover Insurance Company (Audio).

**Call to Order:**

Chairman Cox called the meeting to order.

**Review of minutes:**

The Board reviewed minutes of the Board meeting held on June 20, 2018. Chairman Cox called for a motion to approve the minutes and Board Member William Johnson made the motion to approve the minutes as submitted. During the discussion on the motion, Board Member Richard Starbard requested the draft minutes be amended at page 5, because a typographical error appeared with the incorrect date of June 20, 2018, for the next scheduled Board meeting when in fact the Board set the date for August 28, 2018. The minutes were so amended to reflect the proper date; Board Member Starbard then seconded the motion. Chairman Cox called for a vote on the motion, and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**Report on the next Part-II examination for motor vehicle damage appraiser:**

Board Member Richard Starbard reported the Motor Vehicle Damage Appraiser Part-II examination will be held on November 7, 2018, at Progressive Insurance Company's facility in Westwood.

**Discussion by the Board about clarifying the term "Like Kind and Quality":**

Board Member William Johnson drafted the following item for the Board's consideration:

Defining the term Like Kind and Quality (LKQ) as compared to the language contained in M.G.L. c. 175, § 2 and as a definition of LKQ on an auto appraisal as it relates to used parts. Whether used parts need to be from the same model year or newer and have the same or less miles in compliance with MGL C 175 Sec 2 providing "A contract of insurance is an agreement by which one party for a consideration promises to pay money or its equivalent, or to do an act valuable to the insured, upon the destruction, loss or injury of something in which the other party has an interest." The Board will discuss how the words "pay money or equivalent" relate to 211 CMR 133.05 "Determination of Values" as that provision relates to determine total losses of a damaged motor vehicle and subsection (d) which provides that such vehicles must be LKQ. Two axioms for "Deterring Values" are: (1) when pricing the value of a vehicle the prior year cannot be used and (2) vehicles with higher mileage cannot be used unless there is an adjustment for the mileage overage. Assuming the LKQ automobile for comparison purposes must be of the same year and the mileage must be the same or lower than the damaged motor vehicle, *a fortiori* the only conclusion that can be reached, is that under 211 CMR 133.04 the threshold would be the same as it relates to used parts or replacement parts for a damaged motor vehicle.

Chairman Cox read the agenda item and then opened the matter for discussion. Board Member Johnson explained the term "Like Kind and Quality" (LKQ) is very clear and understood within the auto body appraisal industry when applying LKQ to replacements parts; the parts have to be of the same kind and year as the damaged part. Board Member Johnson opined, an Advisory Ruling issued by the Board will spell out what a LKQ part is, and asserted that, even the regulation [211 CMR 133.05] spells out what a LKQ part is, an Advisory Ruling will only re-enforce to the auto body industry and appraisers working in it, the type of replacement part that should be used when the term LKQ is made part of an appraisal.

Board Member Joseph Coyne disagreed by stating he saw no need for issuing an Advisory Ruling, and asserted that the regulation 211 CMR 133.00 already provides a definition for the term LKQ, as equal to or in better condition than the damaged part that is being replaced. Board Member Coyne saw no need in explaining the term when the term was already well defined in the existing regulation.

A member of the general public named Dave Petrillo, President of the Automotive Recyclers of Massachusetts, Inc., asked to address the Board and Chairman Cox granted permission.

Mr. Petrillo questioned how such an Advisory Ruling for LKQ would comport with a situation whereby the damaged motor vehicle was constructed of sheet metal parts and the replacement parts would be of a better material but not constructed of sheet metal. He did not see the need to require

the same kind of material for the replacement part as the damaged material on a motor vehicle in such a scenario.

Board Member Johnson responded that an Advisory Ruling would simply restate the CMR [211 CMR 133.00] and it would change nothing.

Board Member Lyle Pare interposed, there are a lot of carry over parts from year to year and he expressed concern that such an Advisory Ruling would limit the current practice that allowed for replacing parts that were a little older than the damaged parts. He opined that such an Advisory Ruling would be strictly enforced which would eliminate the use of a replacement part that was one mile over the mileage limit and, therefore no deemed an LKQ part. Board Member Pare provided as examples the common practice in the auto body industry providing for the replacement of tail-light and head-light parts of later year vintage than the damaged parts. Board Member Pare explained, strictly speaking these types of replacement parts would not be considered LKQ parts under the definition of the term as submitted by Board Member Johnson.

A Member of the general public, Mr. Cohen, asked permission to speak and the Chairman granted permission. Mr. Cohen suggested an example where LKQ part would vary is of a truck-bed that was damaged and a part composed of sheet metal that was never used but in perfect condition was available as a replacement part, but because the part is one year older than the damaged part the definition of LKQ would preclude the use of such a part.

Board Member Johnson retorted that appraisers are allowed to negotiate such replacement parts, but LKQ is clearly defined.

Mr. Evangelos Papageorg, Executive Director of AASP Massachusetts, requested permission to speak with the Board and permission was granted. Mr. Papageorg opined that, a part that has been damage cannot be used as a replacement part under the term LKQ. Mr. Papagoerg elaborated, no one wants to drive-up the costs to repair a damaged motor vehicle, the auto body industry does not want to force onto the consumer a damaged part, but should provide a part of the same age of Like Kind and Quality without any damage to the part.

Dave Petrillo was allowed to respond and he asserted that, the Board should not want to manage by exceptions and egregious cases should be brought to the Board's attention. He concluded that the Board should not issue an Advisory Ruling, such a ruling would only create confusion and motor vehicle damage appraisers will only dig their heels in and refuse to negotiate.

Board Member Johnson reiterated, the definition is already in the regulation.

Adam Haddad owner of Accurate Collision of Worcester, a member of the general public, asked permission to speak and Chairman Cox granted permission. Mr. Haddad asserted that, typically written appraisals by auto body shops and insurance companies' appraisers do not know the condition parts are in until they arrive at the auto body shop and often times when the parts arrive they are damaged.

Board Member Coyne responded that the answer is to use a reliable quality recycler of replacement parts. If one does not use a quality recycler, then the appraiser should ask the recycling company about the part, and in his experience, ninety-nine percent of the time the recycler will deliver the part exactly as described. Just because a part is the same year or newer than the damaged part, that does not mean the part is in better condition. Mr. Coyne provided an example of a four year old truck that could be rusted out and the same year model truck without any rust. Just because a part is of the same year does not mean it is in good or better condition. Often times consumers want a replacement part of a different color, and this also would not meet the technical requirements of LKQ as defined by Board Member Johnson.

Samantha Freedman, Legislative Attorney for the Geico Insurance Company, asked permission to speak to the Board and Chairman Cox granted permission. Attorney Freedman pointed out that the definition does not speak to the model year or mileage of the motor vehicle, it only requires the part to be of Like Kind and Quality [the regulation referenced, 211 CMR 133.04(1) requires in pertinent part, “When it is determined that a part must be replaced, a rebuilt, aftermarket or used part of like kind and quality shall be used in the appraisal...” The regulation at 211 CMR 133.04(1) (e) defines LKQ in relevant part as, “[A] part is of like kind and quality when it is of equal or better condition than the pre-accident part.”]. Attorney Freedman opined, the Board lacked jurisdiction over defining Like Kind and Quality and the issue was one to be determined by the Division of Insurance. Because the Commissioner of the Division of Insurance issued 211 CMR. 133.00 et seq., any such issue should be determined by the Division of Insurance and not by the Board.

Board Member Johnson retorted, Massachusetts General Laws Chapter 30A [Administrative Procedures Act], Section 8, allows agencies to issue Advisory Rulings.

John Murphy, Executive Director of the Massachusetts Insurance Federation, which reportedly serves as the leading voice of the property and casualty insurance industry in the Commonwealth, requested permission to speak and Chairman Cox granted permission. Executive Director Murphy declared, the Board’s authority to issue an Advisory Ruling was restricted to only matters of licensing motor vehicle damage appraisers and the Board possessed no other legal authority beyond licensing of appraisers. Mr. Murphy concluded, the proposed Advisory Ruling would go beyond the scope of the Board’s authority.

Chairman Cox declared the discussion closed and called for a motion.

Before a motion was made, Legal Counsel to the Board, Michael D. Powers, interjected and directed the Board’s attention to the Board’s past practice for promulgating an Advisory Ruling. Attorney Powers reminded the Board that the past practice was: (1) a Board Member proposed an Advisory Ruling; (2) the proposed Advisory Ruling would be forwarded to the Board’s Legal Counsel for editing and placed it in the proper format; (3) the proposed Advisory Ruling would be placed on the Board’s agenda for discussion; (4) the proposed Advisory Ruling would be discussed at the meeting with any potential amendments made to it; (5) the proposed Advisory Ruling would be placed on the next agenda of the following Board meeting and posted on the Board’s website for comments by interested parties; (6) after comments from interested parties were reviewed and reflected upon by the Members of the Board the proposed Advisory Ruling would be placed on the agenda for the next Board meeting for a vote of the Board. Mr. Powers said that this procedure was the procedure that the Board followed for the next item on the Board’s agenda (Item V.), which, in sum, is a proposed

Advisory Ruling mandating manufacturer repair procedures whenever the structural integrity of a motor vehicle is damaged and would affect the safe operation of a motor vehicle. Mr. Powers asserted that the procedure followed for this agenda item, should be followed for the recently proposed Advisory Ruling. Attorney Powers recommended that the Board table the proposed Advisory Ruling and follow past practice.

A motion to table the draft version of the proposed Advisory Ruling was made by Board Member Coyne with a second by Board Member Johnson, the motion passed by a vote of: 4-0 with Chairman Cox abstaining. Board Member Johnson agreed to send a draft of the proposed Advisory Ruling to Legal Counsel Powers who would review the proposed Advisory Ruling, edit it, place it in the proper format, and place it on the agenda for discussion at a Board meeting.

**Discussion by the Board, comments and input from insurance companies writing property and casualty motor vehicle insurance in Massachusetts, representatives of the auto body repair industry, and other interested parties on the proposed Advisory Ruling submitted by Board Member William Johnson and amended by Board Member Lyle Pare, requiring manufacturers recommended repair procedures must be followed when a structural part of a motor vehicle has sustained damage affecting the safe operation of the motor vehicle:**

The proposed Advisory Ruling submitted by Board Members Johnson and Pare is the following:

TO ALL CONCERNED PARTIES

Re: Advisory Ruling 2018-XXXX

The Auto Damage Appraiser Licensing Board (ADALB or Board) is authorized to oversee all motor vehicle damage appraisers in the Commonwealth of Massachusetts pursuant to M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq. titled, “The Appraisal and Repair of Damaged Motor Vehicles” as promulgated by the ADALB. In relevant part M.G.L. c. 26, § 8G provides, “The board shall after notice and hearing in the manner provided in chapter thirty A adopt rules and regulations governing licenses under this section in order to promote the public welfare and safety.” In addition 212 CMR 2.01(1) provides, “Purpose and Applicability. The purpose of 212 CMR 2.00 is to promote the public welfare and safety by improving the quality and economy of the appraisal and repair of damaged motor vehicles... .” Furthermore, 212 CMR 2.04(1)(e) in pertinent part reads, “If, while in the performance of his or her duties as a licensed auto damage appraiser, an appraiser recognizes that a damaged repairable vehicle has incurred damage that would impair the operational safety of the vehicle, the appraiser shall immediately notify the owner of said vehicle that the vehicle may be unsafe to drive. The licensed auto damage appraiser shall also comply with the requirements of M.G.L. c. 26, § 8G the paragraph that pertains to the removal of a vehicle's safety inspection sticker in certain situations.” Under its authority the ADALB is, *inter alia*, authorized to: issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers or appraiser) 212 CMR 2.02, regulate the conduct of motor vehicle damage appraisers in the Commonwealth 212 CMR 2.02, regulate the manner of conducting motor vehicle damage appraisals 212 CMR 2.04, and to issue Advisory Rulings pursuant to 212 CMR 2.01(3) and M.G.L. c. 30A, § 8. It is the intention of the ADALB to issue an Advisory Ruling consistent with 212 CMR 2.00 et seq. and M.G.L. c. 26, § 8G to be followed by licensed appraisers.

Pursuant to its authority, the ADALB will hold a vote to adopt this Advisory Ruling.

## ADVISORY RULING

212 CMR 2.04(1)(e) states in relevant part "[T]he appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs. The registered repair shop must prepare an appraisal for the purpose of negotiation. No appraiser shall modify any published manual (i.e., Motors, Mitchell or any automated appraisal system) without prior negotiation between the parties. Manufacturer warranty repair procedures, I-Car, Tec Cor and paint manufacturer procedures may also apply." [ ]. The Insurance Institute for Highway Safety (IIHS) and the Highway Loss Data Institute (HLDI) or other similar recognized industry resource may also be utilized for negotiation purposes.

The Auto Damage Appraiser Licensing Board has passed a motion declaring that for the purposes of reducing traffic accidents and safeguarding users of motor vehicles against unreasonable risks of accident, injury, or death, when structural damage is caused to the structural/frame component of a motor vehicle (the main structure of the vehicle and/or any component designed to provide structural integrity of the vehicle), and if the repair of a damaged part will impair the operational safety/integrity of the motor vehicle requiring the replacement of the part, to ensure the safe and proper repair of a damaged motor vehicle the manufacturer warranty, I-Car, Tec Cor (or similar recognized industry resource) repair procedures shall be followed. Components that are bolted onto a motor vehicle are not considered part of its structure or frame. This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in fines and penalties as provided by law.  
For the ADALB,

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

At the previous Board meeting, Chairman Cox executed a letter notifying various interested parties in the insurance and auto body repair industry about the proposed Advisory Ruling and requested comments. The proposed Advisory Ruling was also posted on the ADALB's website requesting comments from interested members of the general public. Several written statements were sent to the Board by various interested parties and the Members of the Board were provided with copies of the statements prior to the Board meeting and a list of these statements is provided at the end of these minutes.

Chairman Cox read the first paragraph of the agenda item and when he concluded reading the paragraph he asked Board Member Johnson to read the remaining part of the agenda item, and Member Johnson complied by reading the remaining words of the item.

At the conclusion of Board Member Johnson's reading the item, Board Member Coyne declared the ADALB does not have the authority to issue such an Advisory Ruling because it would exceed the scope of the Board's authority. Board Member Coyne explained that the Board is not authorized to instruct auto body shops as to the manner in which a damaged motor vehicle must be repaired.

Board Member Johnson replied, the proposed Advisory Ruling was simply stating what is required by motor vehicle damage appraisers. He elaborated, when the damage impacts the structural

integrity of the motor vehicle and creates an issue about the safe operation of the vehicle, then the vehicle should be repaired properly as provided for by a motor vehicle manufacturer's repair procedures.

Board Member Coyne asserted he just received copies of statements from various interested parties and did not have sufficient time to review them, and Board Member Coyne wanted to read what was submitted. He declared, as a Member of the Board he was duty bound to read the documents and, if there was case law or legal authority cited in them, he wanted time to look-up the cases and statutes that were cited by the interested parties in their statements.

Board Member Johnson made a motion to table the item, included in the motion was an extension of two weeks for interested parties to file any additional comments with the Board, and the motion was seconded by Board Member Coyne. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**A redacted appraisal submitted by Board Member Johnson for discussion by the Board containing, on page 4 the following words: "THIS ESTIMATE IS SUBJECT TO CARRIER REVIEW & MAY BE REVISED":**

Board Member Johnson provided to the Members of the Board a redacted appraisal of motor vehicle damage containing four pages from, NATIONWIDE APPRAISALS, LLC, and directed the Board's attention to the words, "THIS ESTIMATE IS SUBJECT TO CARRIER REVIEW & MAY BE REVISED". (Emphasis in original). Board Member Johnson explained that the ADALB has the authority to approve any forms for conducting an appraisal of a damaged motor vehicle. [As provided, in relevant part, in M.G.L. c. 26, Section 8G "No appraiser shall complete an auto damage report unless he is duly licensed and unless it is on an approved form, and in a manner consistent with rules and regulations as shall be issued and amended from time to time by the board..." and as referenced in the ADALB's regulation at 212 CMR 2.02(5)]. Board Member Johnson declared that, the language contained in the redacted appraisal of, "THIS ESTIMATE IS SUBJECT TO CARRIER REVIEW & MAY BE REVISED" is inappropriate because it does not leave the final determination for the appraisal of the motor vehicle damage to the licensed appraiser. According to this language in the appraisal, someone else in the company will make the final decision. Under the Board's enabling act and regulation, only the licensed motor vehicle damage appraiser is authorized to conduct and complete the appraisal of the damage and on a form approved by the Board. These words in the form used by this company are not approved by the Board.

Board Member Starbard asserted that the Board should send a letter to the company and get the word out, this will accomplish the goal of reminding the industry that only licensed appraisers are authorized to conduct appraisals.

Chairman Cox suggested that the Board send a letter to insurance companies that they should conform to the Board's regulation.

Board Member Coyne disagreed. He asserted that his office reviews appraisals conducted in the field by licensed appraisers and always checks on the accuracy of the appraisals. Sometimes appraisers make mistakes when writing an appraisal for example, by miscalculating hours for labor and materials and other matters. Insurance companies are also allowed an internal office review

of appraisals conducted by appraisers in the field. If an appraiser mistakenly places \$600 for an item that is actually a \$60 item, the insurance company has the right to do an internal review and make the correction for the proper amount. Mr. Coyne saw nothing wrong with correcting mistakes that are made by field appraisers, this is done all the time in the ordinary course of business in the auto body appraisal industry, and Mr. Coyne did not find that the language in the appraisal violated the Board's enabling act or regulation.

Board Member Johnson felt the need to send a letter to the company reminding the company of complying with the Board's enabling act and regulation.

Chairman Cox requested that Board Member Johnson draft a letter for review at the next Board meeting and Board Member Starbard indicated that he would work with Board Member Johnson on drafting the letter.

**Date of next Board Meeting:**

The Board Members agreed to hold the next Board meeting on October 11, 2018, at 9:30AM at 1000 Washington Street, Boston, Massachusetts.

**Motion to enter the Executive Session:**

Chairman Cox announced that the Board was about to enter the executive session and would conclude the Board meeting in the executive session without returning to the public session. Chairman Cox then read the following announcement:

Executive session to review and discuss the background of applicants for motor vehicle damage appraiser test who have disclosed a criminal conviction on the application. Review and discussion of Complaints 2018-3, 2018-4, 2018-5, 2018-7A&B, 2018-8A&B, 2018-9A, B &C, and 2016-5 filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board. Such discussions during the executive session are 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. 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.

The licensed appraisers' attorneys have requested the matters be heard in the executive session.

After reading the item, Chairman Cox called for a motion to enter the executive session, the motion was made by Board Member Coyne, and seconded by Board Member Starbard. A roll-call of the Board Members was taken by Chairman Cox with each Board Member voting in the affirmative, and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**Executive Session:**

**Complaint 2016-4**

Attorney Owen Gallagher appeared during the executive session with the licensed appraiser at the previous Board meeting held on June 20, 2018, and agreed to have the complainant appear at the executive session.

The licensed appraiser provided a detailed response to the allegations made in the complaint and answered every question that the Members of the Board asked of him. Attorney Owen Gallagher, a renowned expert in Massachusetts Insurance Laws, requested permission to speak with the Board and permission was granted. Attorney Gallagher made a presentation, wherein he addressed each and every issue that was raised in the complaint that was filed against the licensed appraiser.

At the conclusion of the presentation, the Members of the Board suggested that Attorney Gallagher and his client, the licensed appraiser, attempt further negotiations with the complainant and they agreed.

The licensed appraiser reported that after further attempts at negotiation the insurance company sent an additional check to the complainant who was the owner of the auto body shop and the motor vehicle was repaired.

Board Member Pare asked if the complainant was satisfied, and the licensed appraiser responded that he probably was not satisfied because he was not paid the total amount of his demand because the complainant did not satisfactorily provide information about the repair of the damage.

Board Member Coyne asserted that, it is not for the Board to ensure a complainant is satisfied, the Board's duty is to ensure the enabling act and the Board's regulation are complied with. Board Member Coyne asked Attorney Gallagher if he could have the insurance company remind its licensed appraisers of their duty under these circumstances and Attorney Gallagher responded that he would have the insurance company send a letter to its appraisers reaffirming that the Board's regulation must be followed under the same relevant circumstances that gave rise to the complaint, and he would send a copy of the letter to the Board. Board Member Coyne made a motion to dismiss and the motion was seconded by Board Member Johnson. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

#### Complaint 2018-9A, B & C

The Board reviewed a request made by the licensed appraiser in Complaint 2018-9C to sever his case from that of the other cases. A discussion was held among the Members of the Board about the licensed appraiser's request to sever his case from that of the other two named appraisers. After a discussion it was agreed to separate the case and have Board Legal Counsel notify the licensed appraiser that the case has been separated and is assigned as Complaint 2018-9C. A motion was made by Board Member Johnson to sever the case, amend the complaint numbers designating as an individual complaint, Complaint 2018-9C, and reassigning Complaint 2018-9A&B and it was seconded by Board Member Coyne, and the motion passed by a vote of: 4-0, with Chairman Cox abstaining. The other two Complaints were assigned complaint numbers as Complaint 2018-9A&B.

#### Complaint 2018-7A & B, Complaint 2018-8A & B, and Complaint 2018-9A & B

One of the licensed appraisers appeared with his attorney T. Harry Eliopoulos. The attorney asked permission to speak with the Board and permission was granted. The attorney informed the Board that he was representing both of the licensed appraisers in all three of these matters and the other named licensed appraiser was unable to attend.

The Board informed the licensed appraiser and his attorney that they had determined to agree with the request of the licensed appraiser named in Complaint 2018-9A, B, & C, to sever the complaint for the licensed appraiser named in "C" and assign a separate complaint number of Complaint 2018-9C and reassign the complaint for the other two named appraisers as Complaint 2018-9A & B. There was no opposition expressed by the license appraiser of his attorney about severing the complaints.

The attorney was again given permission to speak to the Board and he asserted that the Board lacked jurisdiction over the matter. The attorney also declared that there were civil cases pending in the superior court between the complainant, insurance company, and the licensed appraisers named in the Complaints and for that reason the Board should dismiss the complaints.

Board Member Coyne asked the attorney to provide copies of the civil actions that were filed in the superior court and the attorney was unable to produce them.

Board Member Coyne queried whether all of the complaints were related to pending civil litigation and the attorney was unable to answer the question.

Board Member Johnson moved to continue the cases to the next scheduled Board meeting at which time the attorney for the appraisers was to produce copies of the pending litigation filed in the superior court before the next scheduled Board meeting. The matter was continued by consensus of the Board.

The matters were continued to the next scheduled executive session of the Board meeting.

Complaint 2018-11, Complaint 2018-12, and Complaint 2018-13

The licensed appraiser is the same appraiser complained against in each complaint and each complaint was filed by the same insurance company. The licensed appraiser appeared with his attorney, T. Harry Eliopoulos. The licensed appraiser asserted that the complaints failed to state a violation of the Board's enabling act or regulation. The licensed appraiser made a technical point about the filing of the complaints, that some of them did not contain signed appraisals as required by the Board's regulation.

The attorney asked permission to speak with the Board and permission was granted. The attorney asserted that the complaint's failed to adequately set-out a violation of the Board's regulation.

Board Member Coyne requested that the attorney file a letter with the Board setting forth the grounds for dismissal. The matter was rescheduled for the next Board meeting on October 11, 2018.

**Motion to adjourn:**

Board Member Johnson moved to adjourn the meeting, seconded by Board Member Starbard and the motion passed by a vote of: 4-0 with Chairman Cox 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).

**List of Documents provided at the Board meeting:**

- 1. Appraisal from NATIONWIDE APPRAISALS, LLC.**
- 2. Letter from the Automotive Recyclers of Massachusetts, Inc. dated June 28, 2018, to Gilbert W. Cox, Jr. Chairman Auto Damage Appraiser Licensing Board.**
- 3. Letter dated July 18, 2018, from Plymouth Rock Assurance Corporation, to Commonwealth of Massachusetts Auto Damage Appraiser Licensing Board.**
- 4. Letter from the Mass Insurance Federation dated July 27, 2018, to Gilbert W. Cox, Chairman Auto Damage Appraiser Licensing Board.**

- 5. Letter from the Automobile Insurers Bureau of Massachusetts dated July 30, 2018, to Gilbert W. Cox, Chairman Auto Damage Appraiser Licensing Board.**
- 6. Letter from MAPFRE Insurance dated August 1, 2018, to Gilbert W. Cox, Jr. Chairman Auto Damage Appraiser Licensing Board.**
- 7. Letter from James A. Castleman, Esq. of Paster, Castleman & Rice on behalf of the Alliance of Automotive Service Providers dated August 6, 2018, to Commonwealth of Massachusetts Auto Damage Appraiser Licensing Board.**