



THE COMMONWEALTH OF MASSACHUSETTS
AUTO DAMAGE APPRAISER LICENSING BOARD

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CHAIRMAN

BRUCE S. KING
DAVID E. KRUPA
DONALD R. SPINELLI
JOSEPH A. VALARIOTI

Minutes of Meeting

**Auto Damage Appraisers Licensing Board – January 22, 2007
Marlboro, MA**

Members Present:

Gilbert W. Cox, Jr., Chairman, Law Offices of Gilbert W. Cox
Bruce S. King, King Collision
David E. Krupa, Safety
Donald R. Spinelli, Premier
Joe Valarioti, Central Auto Rebuilders

Robert Kelly, Esq.
Yvonne Torres, Secretary.

Others in Attendance included:

Bill McDonough, Damage Report
Steve Regan, MABA
Ernie Nickole, Nickole Auto Body Inc.
Jim Bates, Commerce Insurance Company ("CIC")
Steve Betley, CIC
John Joyce, CIC
Dennis LaFleur, CIC
Jeff Scott, Premier Insurance
Bob Virta, Virta's Garage
Brenden Manning, Wilson Associates
Dennis Medina, Pro's Auto Body
Frank DeSario, Safety
Steven Cove, George Luddy Chevy
Rick Taylor, Rick's AIB
Paul Semenkow, Peerless Insurance
Jim McNary, One Beacon Insurance
Dave Diamond, A Body Shop
Lenny Legere, Legere Auto Body
Steve Rusconi, Liberty Mutual
Chris DiLorenzo, Liberty Mutual
Mike Moran, Liberty Mutual
Kevin McCarron, Arbella
John Euell, APU
John Hart, APU
Ed Nalewanski, Ed's Auto Body

Approval of Minutes

Valarioti made a motion to accept the December 18, 2006 minutes as written.
Seconded by Spinelli. Passed 3-0.

Report on licenses

Yvonne Torres reported the following:

5,213 Active Licenses; **249** Pending Renewal; **279** pending applications including **19** new applications; **22** Part I retakes; **18** Awaiting the next Part II

File Review Meeting

2004-09 – Legere v. Chicos and Correa

Formal Hearing scheduled tentatively for May 16, 2007. Attorney Kelly will work with Don Spinelli on the Notice of Hearing and Order to Show Cause.

Proceedings recorded by:

John Joyce of Commerce Ins. Co. (Audio/Video)

Thomas Colo, Advanced Auto Body (Audio/Video)

Yvonne Torres, Massachusetts Division of Insurance (Audio)

Informal Hearings

2006-26 – Capazzoli v. Manning and Commerce.

Following discussion with both parties, Spinelli moved to dismiss the complaint. Seconded by King. Passed 3-0.

2006-40 – Semenkow v. Diamond

Motion by Spinelli to keep on file. Seconded by Mr. King. Passed 3-0.

Complaints (Step 2)

Motion by Krupa to dismiss the three complaints listed below. Seconded by King. Passed 4-0.

2006-36 – Virta v. Bates

2006-37 – Virta v. Bates

2006-38 - Virta v. Fitzhenry

Discussions

212 CMR 2.00

The Board agreed upon the following language for discussion at the public hearing.

Delete Section 2.04(e) paragraph 4 sentence 4 *Beginning: *With respect to* and ending: *shall be used*. Replace with proposed language:

“With respect to paint, paint materials, body materials and related materials, if the formula of dollars times hours is not accepted by a registered repair shop or licensed appraiser, then a published manual or other documentation shall be used unless otherwise negotiated between the parties.”

Motion by Spinelli that the Board adopt Option 1 (above) to be inserted into the regulation and to move forward with a public hearing. Seconded by Bruce King. Vote 2-2. Chairman votes in the affirmative. Motion passes. 3-2 vote.

The Board requested that Mr. Kelly start the administrative process by submitting the above proposal to the Commissioner of Insurance for approval.

There was also a discussion about the Board’s ability to amend its own regulations without the approvals of the Division of Insurance, Office of Consumer Affairs and the Office of Administration and Finance. Valarioti argued that the Board can make changes to its own regulations as it has in the past and believes that the statute that set up the Board gives the Board that authority. He stated that the Board is self-governing and is only housed in the Division of Insurance. Mr. Kelly reminded the Board members of the meeting with the Commissioner of Insurance, Elisabeth Ditomassi, General Counsel and David Murray, Esq. of the Executive Office

of Consumer Affairs in which the current procedures for amendments to the Board's regulation were discussed.

Petition to amend 212 CMR 2.00 submitted by Attorney Castleman.

King moved to accept the petition amendment to the regulation 212 CMR 2.00 submitted by Central Massachusetts Autobody Rebuilders Association, Inc. and AASP. Seconded by Spinelli. Passed 3-0. Valarioti recused himself from voting because he is a member of the Central MA Autobody Rebuilders Association.

It was requested that Attorney Kelly submit the petition to the Commissioner of Insurance for approval to begin the administrative process for changes to the regulation.

Spinelli made a motion that this program be limited to those claims where there are no subrogation issues and recommended the following language to be inserted into Exhibit B, page 6 to the end of subsection (h) after the words **Section 204A hereof** *for repairs arising from claims for which an insurer has no subrogation rights against another insurer*. Seconded by Cox.. 1-2 vote. Chairman votes in the affirmative. Motion fails on a 2-2 vote.

Other Business

2005-28 – Johnson v. Commerce, Fels, Diesi, King and LeFleur

Attorney Peter McCue requested to postpone the informal hearing scheduled for February 21, 2007 on the above case. He submitted a letter dated 1/11/07 stating that the Board does not have legal authority or jurisdiction over labor rates and suggested that the Board seek the advice of its counsel on the legality of having moved this complaint to an informal hearing.

King made a motion that the Board submit Mr. McCue's letter and question to legal counsel for review and research on labor rates for a recommendation on this particular case. Mr. Kelly was asked to report back at the next meeting. Seconded by Spinelli. Passed 3-1 vote.

King made another motion to postpone the informal hearing on this case until the Board receives an opinion from their legal counsel on the issue. Passed 3-1 vote.

Part I Exam – Angel Perez

Mr. Torres contacted Thompson Prometric to see if they could administer the Part I in another language or allow the use of an interpreter. Thompson Prometric reported that they did not have the test available in any other language and would not allow an interpreter. They stated that they would consider allowing more time if an applicant indicated that English is a second language.

Mr. King made a motion that he be given as much time as he needs to complete the Part I exam. Passed 3-1 vote. Torres was instructed to send a letter on behalf of Angel Perez to request additional time for completion of the Part I examination.

Proposal by Progressive to expedite the Part II exams. Mr. Kelly stated that the Commissioner of Insurance would be meeting with Progressive on this matter.

Future Meetings

Wednesday, February 21, 2007

Monday, March 19, 2007

Wednesday, April 25, 2007

Wednesday, May 16, 2007

Motion to Adjourn. Passed 4-0.

Minutes of Executive Session
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Spinelli made a motion to accept application of Steven Cove. Seconded by King.
Passed 4-0.