



## THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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November 12, 2020

Executive Office of Administration and Finance  
State House, Room 373  
Boston, MA 02133

Re: Meeting and Agenda Items for the Massachusetts Auto Damage Appraiser Licensing Board  
Wednesday, November 18, 2020 at 11:00AM

Dear Concerned Parties:

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) will hold a meeting on Wednesday, October 14, 2020, by teleconference at 11:00AM from 1000 Washington Street, Boston, Massachusetts. Because of COVID-19 Order No. 47 issued by Governor Charles D. Baker on August 7, 2020, gatherings of over 25 people are prohibited and, therefore, members of the general public will not be allowed to attend in-person. The public is invited to join-in the teleconference meeting by dialing the "Participants" telephone number at: 1-877-820-7831 and entering the Passcode 623523#. The topics to be discussed during the meeting of the Auto Damage Appraiser Licensing Board will be the following:

- I. Call to order.

- II. Approval of the Board minutes for the Board meetings held on October 14, 2020.
- III. 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.
- IV. 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 xxxxxxxxxx, 2020, to adopt this Standard of Review.

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

- V. For discussion by the Board, a motion submitted by the Legal Counsel to the Board, Michael D. Powers, to approve an Order to Show Cause based on pleas entered on September 21, 2020, in the United States District Court for Massachusetts before Judge Timothy S. Hillman, against licensed motor vehicle damage appraiser Adam Haddad to three counts of: Aiding Preparation of False Tax Returns (26 U.S.C. § 7206(2)). The following Order to Show Cause is submitted for approval by the Board:

COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF INSURANCE  
AUTO DAMAGE APPRAISER LICENSING BOARD

SUFFOLK, ss

Docket No. E2019-1

\_\_\_\_\_  
AUTO DAMAGE APPRAISER  
LICENSING BOARD

Petitioner,

v.

ADAM HADDAD,

Respondent.  
\_\_\_\_\_

PROPOSED  
ORDER TO SHOW CAUSE

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. 28 § 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.
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.
3. 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 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)
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 violation 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 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

- VI. 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.



- VII. 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.

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

IX. Motion to adjourn.

Auto Damage Appraiser Licensing Board,  
By its Legal Counsel

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I certify that, this Notice was sent by U.S. Mail postage prepaid to the Massachusetts Office of Administration and Finance, to the Office of the Secretary for the Commonwealth and forwarded by e-mail to the IT Services for the Commonwealth.

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Michael D. Powers  
Counsel to the ADALB

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Date

