

MINUTES

SOUTH CAROLINA AUCTIONEERS' COMMISSION

Commission Meeting

February 28, 2000

The Koger Executive Center

The Kingstree Building

110 Centerview Dr., Room 111

Columbia, South Carolina

Mr. Ivan Broadwell, of Fort Mill, Chairman of the Commission, called the regular meeting of the South Carolina Auctioneers' Commission to order at 10:00 A.M., on Monday, February 28, 2000, at the Koger Executive Center, The Kingstree Building, 110 Centerview Drive, Room 111, Columbia, South Carolina, with a quorum present. Other members of the Commission present were as follows: Mr. Wendell Christopher, of Roebuck, Mr. Ronald Paxton, of Spartanburg and Mr. Jeffrey Shaw, of West Columbia. An excused absence was granted to Ms. Mae Buzhardt, of Batesburg.

Members of the staff participating at various times in the meeting included: Ms. Lou Ann Pyatt, Program Coordinator; Mr. Larry Hall, Investigator; Mr. Rick Wilson and Mr. Kent Lesesne, Staff Counsel, LLR-Office of General Counsel; Ms. Terri Hooper, Administrative Assistant, Ms. Janet Scott, Administrative Coordinator.

Members of the public audience included: Mr. Alan Brodie, Mr. Jimmy Julian Dixon, Mr. Stephen Ray Harrell, Mr. Eric Burt Newton, Mr. Thomas Craig Simmons, Mr. William Joe Wilson, Mr. W. Ryan Hovis, U. S. Panel Trustee and Jeffrey L. Silver, of the law firm of Tyler, Cassell, Jackson, Pease & Silver.

All votes by the Commission reported in these minutes were unanimous unless otherwise indicated.

INVOCATION.

Mr. Jeffrey Shaw delivered the invocation.

APPROVAL OF MINUTES.

Mr. Christopher made a motion to approve the November 1, 1999 meeting minutes with two corrections. The motion was seconded by Mr. Paxton and unanimously passed.

CHAIRMAN'S REMARKS.

Chairman Broadwell welcomed everyone to the meeting.

ADMINISTRATOR'S REMARKS.

Mrs. Pyatt reported to the Commission the following:

1. Mrs. Pyatt presented a letter (attached as Addendum A) from Linda Turner, Executive Director of the Georgia Auctioneers Commission regarding the S. C. Auctioneers' Commission members and other staff attending a meeting at 10:00 A.M., March 20, 2000, in Macon, Georgia. The purpose of the meeting is to discuss upcoming issues facing the auctioneer industry such as reciprocity agreements, continuing education, and difficulties or issues that might be facing regulatory agencies in the future. Those expressing a desire to attend the meeting include Lou Ann Pyatt and Commissioners Ivan Broadwell, Wendell Christopher and Jeffrey Shaw.
2. Mrs. Pyatt presented a list (attached as Addendum B), of individuals licensed in November and December 1999 and January 2000.
3. Mrs. Pyatt stated continuing education classes for 2000 have been scheduled for April 5 in Florence and June 7 in Charleston. She is still working on a date and facility in Columbia and a possible date at Greenville Tech in Greenville.
4. Mrs. Pyatt updated the Commission on the amended Auctioneer Bill 4392, (attached as Addendum C). She said there were some amendments to the Bill that were passed by the subcommittee. Those amendments include:

Under Section 40-6-20, (5) the last sentence has been added, which states, "excluding a sole proprietorship".

Under Section 40-6-20, (10) adds the definition of 'Sole proprietorship' which means an auction business owned in its entirety by an auctioneer.

Section 40-6-30 was deleted because the language is contained in Section 40-6-250. "Unless exempt from licensure under section 40-6-370, no person shall sell or offer to sell goods or real estate at auction in this State of perform an act for which an auctioneer or apprentice auctioneer license is required unless the person holds a currently valid license issued under this chapter".

Section 40-6-235, (B) and (C) were added. (B) "A sole proprietorship is exempt from auction firm licensure, as provided for in subsection (A)". (C) "Licensed real estate brokers-in-charge and real estate firms are exempt from auction firm licensure, as provided for in subsection (A), if they employ a licensed auctioneer to handle those aspects of the transactions peculiar to the auctioneer profession".

Section 40-6-370, the first sentence was changed to clarify the contents of exceptions. "This chapter applies to all auctions held in this State except:"

Mr. Broadwell asked Rick Wilson, if Section 40-6-370(7), referring to auctions by a trustee pursuant to a valid power of sale, is for a specific power of sale for that auction? Mr. Wilson said it should be, because the power of sale probably comes from the probate court. Mr. Broadwell asked if someone with a general power of attorney would be allowed to conduct an auction? Mr. Wilson stated this would not be the case.

1. a) Mrs. Pyatt submitted a blank reciprocity agreement form, (attached as Addendum D) for auctioneer license reciprocity between the states of Louisiana and South Carolina. She said a review of Louisiana's auctioneer license law is basically the same as South Carolinas', and the reciprocity agreement form is a standard agreement. The Louisiana Auctioneer Law requires eighty (80) hours of classroom instruction or a one-year apprenticeship program for a person to be licensed as an auctioneer. The reciprocity agreement would exempt licensed auctioneers in Louisiana, whose licenses are in good standing, from taking the South Carolina Auctioneer's examination, and likewise for South Carolina auctioneers applying for a reciprocal license in Louisiana. Mr. Wilson said the reciprocity agreement form is standard and he found no problems with it. Mr. Christopher made a motion to approve the reciprocity agreement. The motion was seconded by Mr. Shaw and unanimously passed.

b) Mrs. Pyatt discussed the auction contract submitted by Southeastern School of Auctioneering (attached as Addendum E). Mr. Larry Meares requested the Commission's attorney review the contract, and that the Commission approve the contract for all auctioneers to use for personal property auctions. Chairman Broadwell said the Commission had previously discussed the contract issue and unanimously agreed to take no position or endorse any one standard contract. Rick Wilson agreed that it should not be the Commission's position to endorse or approve a particular contract to be utilized by all licensees. He added that Mr. Meares should be advised to include the auctioneer's license number on his contract next to the auctioneer's signature, to meet the Auctioneer Statute with regard to written agreements. Mr. Broadwell referenced the Buyer's Premium contained in the contract, and discussed whether or not it should appear on standard contracts, since the Commission's policy does not endorse Buyer's Premiums. Mr. Wilson recommended that auctioneers write in on the contract if they charge a Buyer's Premium and the percentage. Additionally, the auctioneer should include in opening remarks at auctions that a Buyer's Premium will be charged.

OLD BUSINESS.

1. Kellie A. Ritchie.

Ms. Terri Hooper presented an auctioneer application for Kellie A. Ritchie, (attached as Addendum F), that was previously submitted to the Commission at their November 1, 1999 conference call meeting. Ms. Ritchie has approximately five unpaid collections on her credit report, with two I9's and one O9. Ms. Ritchie called the office and requested that she be allowed to appear at the next Commission meeting on May 1, 2000. The Commission tabled the application until the May meeting.

NEW BUSINESS.

1. Requests for approval of licenses

- a. Mr. Joseph Allen Brodie appeared before the Commission to explain a lien, two collection accounts and an I9 charged off account. Mr. Brodie submitted updated reports indicating the lien was satisfied and the collection accounts were being satisfied. Following discussion, Mr. Christopher made a motion to approve Mr. Brodie's application for licensure. The motion was seconded by Mr. Shaw and unanimously passed.
- b. Mr. Jimmy Julian Dixon appeared before the Commission to explain several unpaid collections, mostly medically related, a \$150.00 BellSouth amount and a R9 account. Mr. Dixon said he paid the \$150.00 BellSouth amount, but he could not explain some of the collections. Upon further review of Mr. Dixon's auction school diploma, it was determined that National Auctioneer Training Center, Inc. is not an auction school accredited by the South Carolina Auctioneers' Commission. Mr. Dixon stated he is a resident of Georgia, but could not obtain a license in Georgia because their statutes require an applicant to be a high school graduate, and he did not finish high school. Mr. Christopher made a motion to discuss Mr. Dixon's application in executive session. The motion was seconded by Mr. Paxton and unanimously passed. Mr. Dixon will be notified of the Commission's decision regarding his licensure within ten (10) working days.
- c. Mr. Stephen Ray Harrell did not appear before the Commission to explain one unpaid judgement and one I9 on his credit report. Mr. Harrell is a resident of North Carolina and currently licensed and in good standing in North Carolina since August 19, 1999. Following discussion Mr. Christopher made a motion to issue a probationary license to Mr. Harrell, with a stipulation that Mr. Harrell submits a credit report each year for two years at his expense. If Mr. Harrell does not submit the credit reports, his license will automatically be revoked. The motion was seconded by Mr. Shaw and unanimously passed.
- d. Mr. Eric Burt Newton appeared before the Commission to explain his criminal record report. He was charged with petty larceny and received a reprimand. Following discussion, Mr. Shaw made a motion to approve Mr. Newton's application for licensure. The motion was seconded by Mr. Paxton and unanimously passed.

- e. Mr. Thomas Craig Simmons appeared before the Commission to explain numerous liens and one unpaid collection. He also has two R9's one O9 and one I9 on his credit report. He also did not submit a criminal record report. Mr. Simmons said he would bring the criminal record report to the meeting, but he did not. Mr. Simmons was previously licensed as an auctioneer in 1998, but let his license lapse June 30, 1999. He presented documentation that cleared the liens outlined on the credit report. Mr. Simmons has worked for Ed Roumillat's Auctions since December 1995. Mr. Roumillat suffered a heart attack and Mr. Simmons is badly needed to conduct bid calling. Mr. Simmons indicated he does not handle the proceeds of the auctions. Additionally, he is working very hard to pay off his debts. Following discussion, Mr. Shaw made a motion to grant Mr. Simmons a probationary license, and that Mr. Simmons submits a credit report, at his expense, one year from the date of this license being issued. The motion was seconded by Mr. Paxton and unanimously passed.

- f. Mr. William Joe Wilson appeared before the Commission to explain his assault charges on the criminal record report and the one unpaid judgement, one unpaid lien and one O9 on his credit report. Mr. Wilson confirmed that the assault charges were dismissed. He indicated he paid the Pest Control and Alltel bills and had receipts with him. However, he was unable to produce them at the meeting. Mr. Wilson could not explain the \$7,139 lien except to say that the amount must belong to Carolina Metal Company, where he previously worked. His attorney is trying to find out details about the lien. Mr. Shaw made a motion to grant Mr. Wilson a license pending receiving paid receipts for the Pest Control and Alltel bills. Upon further discussion, Mr. Paxton made a motion to table Mr. Wilson's application pending receipt of documentation explaining the \$7,139 lien and upon receiving paid receipts for the Pest Control and Alltel bills. The motion was seconded by Mr. Christopher and unanimously passed.

- g. Mr. Guerry Dell Wise, Jr. did not appear for the meeting and no action was taken on his application.

HEARINGS.

Two hearings were held in the matter of J. Max McCaskill, d/b/a McCaskill Auction.

EXECUTIVE SESSION.

Mr. Paxton made a motion to go into executive session to receive legal advice concerning the above hearings. The motion was seconded by Mr. Shaw and unanimously passed.

RETURN TO PUBLIC SESSION.

Chairman Broadwell called the regular meeting back to order. Mr. Christopher made a motion regarding the first hearing, pursuant to 40-6-160, (A), to revoke Mr. Max McCaskill's license. Regarding the

second hearing, and pursuant to 40-6-160, (A), assess Mr. McCaskill an additional \$1,000 fine. The motion was seconded by Mr. Shaw and unanimously passed.

EXECUTIVE SESSION.

Mr. Paxton made a motion to go into executive session for legal advice on disciplinary matters. The motion was seconded by Mr. Christopher and unanimously passed.

RETURN TO PUBLIC SESSION.

Mr. Broadwell called the regular meeting back to order.

Cases for Dismissal Report

Mr. Christopher made a motion for the Commission to approve the following case dismissal number 41-55, contained on the Dismissal Report, (See Addendum G), and approve the Approval Report (attached as Addendum H), containing complaint number 41-100. The motion was seconded by Mr. Paxton and unanimously passed.

ADJOURNMENT.

There being no further business, Mr. Broadwell adjourned the meeting.

The next meeting will be held at 10:00 A.M., May 1, 2000.