

MINUTES

South Carolina Auctioneer's Commission
Commission Meeting
10:00 A.M., May 24, 2004
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, South Carolina

Rebecca Frierson, Chairman, of Newberry, called the regular meeting of the S.C. Auctioneer's Commission to order at 10:00 a.m. Other Commission members present for the meeting included: Archie Moody, Vice Chairman, of Darlington; James Blocker; of Walterboro; and Fred Mullis, of Lancaster.

Harriett McCoy, of Hopkins, was granted an excused absence.

Staff members participating during the meeting included: Lenora Addison-Miles, Program Coordinator; Randy Bryant, Assistant Deputy Director; Sharon Dantzler, Deputy General Counsel-LLR Office of General Counsel; Sandra Dickert, Administrative Assistant; Larry Hall, Investigator; Linda Holman, Administrative Assistant; and Kent Lesesne, Attorney, LLR Office of General Counsel.

Members of the public attending the meeting included: Thomas M. Bailey, Ivan Broadwell, Barton HYTE, Larry Meares, Vickie Metcalf, Chris Pracht, Sharon Sanders, Paul Saucier and Dean Strickland, Jr.

Meeting Called to Order

Ms. Frierson announced that public notice of this meeting was properly posted at the S. C. Auctioneer Commission office, Synergy Business Park, Kingstree Building, Room 108 and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Approval of the February 23, 2004 Meeting Minutes

MOTION

Mr. Mullis moved the Board approve the minutes of the February 23, 2004 meeting. Mr. Moody seconded the motion, which carried unanimously.

Chairman's Remarks - Rebecca Frierson

Ms. Frierson introduced the Commission members, staff and guests.

Interim Administrator's Remarks - Lenora Addison-Miles

Ms. Miles reported that 166 firm renewals and 1,086 individual renewals were mailed the first week in May. She noted that as of today staff has received 173 auctioneer renewals and 47 firms have renewed their licenses.

Ms. Miles presented the members with the latest budget information. She indicated this information is the cash balance account information and that goes through March 31, 2004. (The budget information is attached and hereby becomes a permanent part of the record retained at the office.) She noted that she would be sending the members additional information regarding the budget through April as it becomes available. She continued by saying that fees from another Board were incorrectly coded and deposited into the Auctioneer account. She stated that Ms. Frierson had requested specific information regarding travel expenses. She went on to say that the total travel expense in March 2004 was \$864.93, which includes private auto mileage for Board members, reportable meals for Board members and the lease and mileage of the Commission's leased automobile.

Ms. Miles stated staff has received 21 complaints. She noted that five complaints have been closed, two complaints have been dismissed, four complaints are scheduled for Commission action, five complaints are under investigation and five complaints are scheduled for an IRC meeting.

Mr. Randy Bryant addressed the Commission regarding the consolidation of the agency's investigators. He stated the agency provides administrative services to approximately 39 Boards and Commissions. He went on to say in February 2004 Ms. Youmans, the agency director, proposed to consolidate the agency's investigators. He indicated that each Board and Commission has investigators specifically assigned and trained in that specific area; however, the agency has seen inconsistencies in the investigative reports sent to the Office of General Counsel for litigation. In review, some areas have improved (techniques, reports, etc.). He continued by saying Ms. Youmans established a transition team in an attempt to move the approximately 50 investigators and related support staff into one unit to work directly with the Office of General Counsel. He said he would be heading up the investigative unit during the first six months. He presented the members with an organizational chart of the investigative unit. He noted that the Boards and Commissions have been divided into two units: Health and Medical unit, which would include the Medical Board, the Pharmacy Board, the Nursing Board, etc. and the other unit would be the Business and Building, which would include the Auctioneer's Commission, Contractors Licensing Board, etc. Mr. Buddy Morgan will head the Health and Medical unit and Mr. Ed Farnell will head the Business and Building unit. He noted that Ms. Kathy Prince would be the lead investigator on the complaints for the Auctioneer Commission. He went on to say that Mr. Larry Hall and Mr. Raymond Lee would continue to conduct on-site inspections. He stated that during an investigation, Ms. Prince would ask Mr. Hall or Mr. Lee to conduct an inspection that would be included in the investigation. He indicated the agency feels the consolidation is needed to maintain consistency and a high work product. He said that the auctioneer industry would not be affected greatly, however, if affected it would be for the good. He hopes to turn the investigative unit over to another individual once the unit becomes formulated. He indicated Mr. Joe Harmon is the lead investigator for the Auctioneer's Commission. He noted that Ms. Addison-Miles, Ms. Prince and Mr. Hall would be involved with the IRC.

Advisory Opinions, If Needed, Office of General Counsel

There were no advisory opinions given during the May 24, 2004 meeting.

Legislative Update, If Needed, Legislative Liaison Office

There were no legislative items from the Commission to be discussed.

Unfinished Business

There was no unfinished business to be discussed during the May 24, 2004 meeting.

New Business

1. Legislation

Ms. Frierson stated there is currently a bill introduced in the House (H4478) which would exempt auctioneers who are sixty-five (65) years of age or older and who have been licensed twenty-five (25) years from attending continuing education classes. The bill remains in the House LCI committee.

Ms. Frierson stated that in a recent work session meeting the Commission noted places in the law that have changed and wanted to bring the changes to the attention of the association so they may review those changes. She went on to say that one of the changes is that an auctioneer is no longer required to file the name of the deceased person if the word 'estate' is used.

Ms. Frierson stated the Commission has a problem based on a ruling by the SC Real Estate Commission that concerns auctioneers working a real estate transaction. She further stated that the ruling is that auctioneers can work a real estate auction, however, the auctioneer's duties are limited to the call of the bids of the auction. She noted that the real estate broker renders all of the disclosures and prepares all of the contracts and other real estate forms. She continued by saying that this places money in the broker's trust account. She said that the advertisements must identify the broker's company and the auctioneer will be paid solely as the bid caller, not as auctioneer of the property.

2. Auctioneers' Examination Revision

Ms. Frierson stated the Commission has completed the revision of the exam. She went on to say that the narrative has been considerably cut and has been reduced to one page. She also stated that the multiple-choice questions have been reduced to 80 questions. She said the Commission also examined some discrepancies in law questions.

3. Auction School Audit

The schools were asked to submit a package containing a class outline, a list of instructors for each class, the instructors' resumes (to include the area of expertise), and course outlines.

a. Florida Auctioneer Academy

Ms. Frierson stated the Florida Auctioneer Academy has not provided an outline of the classes and which instructors would be teaching classes. The information provided does list the instructors. She noted that the instructors are to submit individual resumes.

MOTION

Mr. Blocker moved the Commission discuss this matter in executive session. The motion was seconded by Mr. Mullis and unanimously carried.

b. Mendenhall School of Auctioneering

The Mendenhall School of Auctioneering submitted a complete package for the Commission's review.

MOTION

Mr. Mullis made a motion, seconded by Mr. Moody and unanimously carried, the Board approve the Mendenhall School of Auctioneering as an accredited School recognized by South Carolina.

c. Midlands Technical College

Midlands Technical College also submitted a complete package for the Commission's review.

MOTION

Mr. Blocker moved the Commission approve Midlands Technical College as an accredited School recognized by South Carolina. Mr. Moody seconded the motion, which carried unanimously.

Ms. Frierson asked Ms. Miles to have Midlands Technical College submit a student book for reference.

d. Missouri Auction School

The information submitted by the Missouri Auction School does not include which classes each instructor would teach.

MOTION

Mr. Blocker moved the Commission discuss this matter in executive session. The motion was seconded by Mr. Mullis and unanimously carried.

e. Nashville Auction School

The Nashville Auction School submitted a complete package for the Commission's review.

MOTION

Mr. Blocker made a motion, seconded by Mr. Mullis and unanimously carried to approve the Nashville Auction School as an accredited school recognized by South Carolina.

f. North Georgia School of Auctioneering

The North Georgia School of Auctioneering submitted a complete package for the Board's review.

MOTION

Mr. Blocker moved the Commission approve the North Georgia School as an accredited school recognized by South Carolina. The motion was seconded by Mr. Mullis and unanimously carried.

g. Southeastern School of Auctioneering

The Southeastern School of Auctioneering submitted an incomplete package for the Commission's review. The information did not include instructors' resumes.

MOTION

Mr. Blocker moved the Commission approve the Southeastern School of Auctioneering as an accredited school recognized by South Carolina pending receipt of the instructors' resumes. Mr. Moody seconded the motion, which carried unanimously.

h. Western College of Auctioneering

The information submitted by the Western College of Auctioneering does not include the instructors' resumes.

MOTION

Mr. Mullis made a motion, seconded by Mr. Moody and unanimously carried, that the Commission approve the Western College of Auctioneering as an accredited school recognized by South Carolina pending receipt of the instructors' resumes.

4. Newsletter

Ms. Frierson tabled the discussion of the newsletter to the next meeting.

5. Applicants (appearing re: credit /criminal history issues)

a. Michael Bailey (auctioneer license candidate requesting oral examination)

Mr. Bailey has requested to appear before the Commission to request an oral auctioneer examination. He attended Southeastern School and took the March 2004 examination, which he did not pass. He has also taken the firm exam twice without success.

Michael Bailey appeared before the Commission at this time.

Mr. Bailey stated he passed the written examination provided by the Southeastern School of Auctioneering. He went on to say his wife currently holds a firm license and that he runs the business. He further stated he is asking the Commission to allow him to take an oral exam. He said he is unable to comprehend a lot of things in writing. He is requesting the Commission allow him to take an oral exam. He does not have a medical condition which would prevent him from taking the written exam. He dropped out of school in the eighth grade. He continued by saying he can read a question, however, he cannot remember the answer ten minutes later.

Ms. Dantzler stated she could not remember the Commission authorizing an oral exam except for the ADA accommodations, such as dyslexia and blindness.

MOTION

Mr. Moody moved the Commission discuss this matter in executive session. Mr. Mullis seconded the motion, which carried unanimously.

b. Barton Hyte

Mr. Hyte has applied for an auctioneer's license by examination. He passed the examination in March 2004 with a score of 75. He is currently licensed as an auctioneer in Massachusetts. His credit report reflects a \$6,926 unpaid collection account and several 1-9 accounts. Mr. Hyte has submitted documentation regarding settlement of the Citibank account and a letter from his attorney regarding a Discover Card dispute.

Barton Hyte appeared before the Commission at this time and answered several questions from the Commission. He indicated the credit problems stems from lawsuits against the builder of his house. He indicated that he paid the bills in five years.

MOTION

Mr. Moody moved the Commission discuss the matter in executive session. The motion was seconded by Mr. Mullis and unanimously carried.

c. Vickie Metcalf

Ms. Metcalf has applied for an auctioneer's license by examination. She passed the examination in March 2004 with a score of 74. Her credit report reflects \$614 of unpaid collection accounts. Her criminal history report shows arrest charges in 2000 and 2002 for simple assault and battery. Ms. Metcalf has provided written explanations on these charges.

Vickie Metcalf appeared before the Commission at this time. Mr. Blocker questioned Mr. Metcalf concerning the fraudulent check charged. She stated she is unaware of the fraudulent check charge found on her arrest record. She indicated her daughter broke her back and became addicted to pain medication. She went on to say she is now raising her grandchildren.

MOTION

Mr. Blocker made a motion, seconded by Mr. Mullis and unanimously carried, that the Commission discuss this matter in executive session.

d. Sharon Sanders (S & S Auctions)

Ms. Sanders has applied for an auction firm license by examination. She passed the firm exam in March 2004 with a score of 72. Her credit report reflects unpaid collection accounts of \$4,297. Ms. Sanders has provided the Commission a written explanation.

Sharon Sanders appeared before the Commission at this time.

Ms. Sanders stated her husband died in December 2003. She further stated she has paid

most of the bills with the exception of the hospital bills and that she is making monthly payments to the hospitals.

MOTION

Mr. Blocker moved the Commission discuss this matter in executive session. Mr. Moody seconded the motion, which carried unanimously.

e. Paul Saucier

Ms. Frierson recused herself from participating in this matter and turned the meeting over to Mr. Moody at this time.

Mr. Saucier has applied for an auctioneer's license by examination. He passed the auctioneer's exam in March 2004 with a score of 86. His credit report reflects an unpaid collection account for \$1,603 and two R-9 accounts. He has provided a written explanation.

Paul Saucier appeared before the Commission at this time.

Mr. Saucier stated he has held a real estate license for eight years and has been a broker for the past five years. He went on to say the unpaid account is with Nextel. He further stated the agents in his employ had their cell phones on his account and were paying their own bills. He went on to say that the agents did not pay the bills when they left his company. He had a dispute with Nextel on this issue, however, Nextel feels it is his responsibility.

MOTION

Mr. Mullis moved the Commission discuss this matter in executive session. The motion was seconded by Mr. Blocker and unanimously carried.

f. Stuart Simpson

Mr. Simpson has applied for an auctioneer's license via reciprocity with Georgia. His credit report reflects unpaid collection accounts exceeding \$8,000 and a judgment for \$3,776. He has provided a written explanation.

Mr. Simpson was unable to attend the meeting.

MOTION

Mr. Moody made a motion, seconded by Mr. Mullis and unanimously carried, to discuss this matter in executive session.

6. Continuing Education: Requests for Continuing Education Approval

a. William Barry Kelley (course/instructor approval)

Mr. Kelley is requesting the Commission review the definition of "Absolute auction" as contained in Section 40-6-20(1) of the South Carolina Code of Laws. He has previously requested to address the Commission regarding the approval of a continuing education

course he has submitted. The Commission denied Mr. Kelley's request to conduct the continuing education course and provider, "Auctioneers Guide to Understanding Residential Appraisals", on February 24, 2003 due to inadequate auctioneering content. On May 19, 2003 the Commission also denied Mr. Kelley's request to conduct the "Auctioneers Guide to the Internal Revenue Service Form 8300" because the instructor did not have the required five years of experience in the particular area.

Mr. Kelley was not present for the meeting. Mr. Kelley has been afforded the opportunity to appear before the Commission but has cancelled each time.

MOTION

Mr. Blocker moved the Commission table this matter until such time Mr. Kelley appears before the Commission. The motion was seconded by Mr. Mullis and unanimously carried.

b. Southeastern School of Auctioneering (instructor approvals)

Mr. Larry Meares of Southeastern School of Auctioneering has submitted resumes on the following individuals to teach at this school. Darron Meares would be teaching Website Advertising and Marketing for Auctioneers, Mr. Balentine and Ms. Rackley would be teaching Computerized Clerking and Cashiering.

Darron Meares

MOTION

Mr. Blocker moved the Commission accept the application of Mr. Meares as an instructor for the school and for continuing education. Mr. Mullis seconded the motion, which carried unanimously.

Lanny Balentine

MOTION

Mr. Moody made a motion, seconded by Mr. Blocker and unanimously carried, that the Commission accept Mr. Balentine as an instructor.

Viola Rackley

MOTION

Mr. Mullis moved the Commission approve Ms. Rackley as an instructor. Mr. Moody seconded the motion, which carried unanimously.

7. Florida Auctioneer Academy (course approval)

The Florida Auctioneer Academy has submitted a 12-hour continuing education course to be taught in Orlando, Florida on June 14, 2004, September 13, 2004 and November 8, 2004. The course is presented over two days and participants "may attend their choice of sessions unless state laws require mandatory subjects."

MOTION

Mr. Mullis made a motion, seconded by Mr. Moody and unanimously carried, to discuss this matter in executive session.

Discussion Items

There were no discussion items for the May 24, 2004 meeting.

Public Comments

Mr. Chris Pracht updated the Commission on the SC Auctioneer's Association.

Mr. Pracht noted that bill H4478 is in the House LCI Committee and would die in committee should it not pass through the legislation this session. Mr. Strickland stated the association would be agreeable to this bill.

Mr. Pracht briefly discussed licensed auctioneers in real estate auctions. Ms. Frierson stated the Commission thought that may be an issue the association may wish to address. Mr. Pracht stated the legislative committee is working on this issue and is drafting a letter to the Commission and is also drafting a letter to the Attorney General for clarification on responsibilities and by what is meant by the law. He indicated there are too many loopholes that does not say which party is responsible in the event of a problem. He went on to say there have been complaints on the national level regarding companies entering the state that are not licensed within South Carolina and the question regarding "Absolute auction" has risen. He noted that the code of ethics for the NAA includes the definition for absolute auction and states "Absolute auction is an auction where property is sold to the highest qualified bidder with no limiting conditions or amounts. The seller may not bid personally or through an agent."

Executive Session

MOTION

At 11:40 a.m., Mr. Mullis moved the Commission take a ten-minute break followed by executive session. Mr. Moody seconded the motion, which carried unanimously.

Return to Open Session to Report on Executive Session

MOTION

Mr. Moody made a motion, seconded by Mr. Mullis and unanimously carried, that the Commission return to public session.

Ms. Frierson noted for the record that no motions were made and no votes were taken during executive session.

Michael Bailey

MOTION

Mr. Blocker moved to deny the application for an oral exam on the grounds that Section 40-6-220(3) requires that an individual must pass a written exam. The motion was seconded by Mr. Moody and unanimously carried.

Barton Hyte

MOTION

Mr. Mullis moved the Commission grant Mr. Hyte a license with a one-year probation, that he report to the Commission in one year, and that he provide the Commission, at his own expense, a credit report.

Vickie Metcalf

MOTION

Mr. Moody made a motion, seconded by Mr. Blocker and unanimously carried, approving Ms. Metcalf for licensure with a one-year probation, that she report to the Commission in one year, and provide a criminal records report and a credit report at her own expense.

Sharon Sanders

MOTION

Mr. Mullis moved the Commission grant Ms. Sanders a license with a one-year probation, that she report to the Commission at the end of that year, and that she submit a credit report, obtained at her own expense, at the end of that year. Mr. Blocker seconded the motion, which carried unanimously.

Stuart Simpson

MOTION

Mr. Moody moved the Commission grant Mr. Simpson a license with a one-year probation and that he provide the Commission with a credit report, obtained at his own expense at the end of that year. The motion was seconded by Mr. Blocker and unanimously carried.

Paul Saucier

MOTION

Mr. Blocker made a motion, seconded by Mr. Mullis and unanimously carried, that the Board grant Mr. Saucier a license with a one-year probation, that he report to the Commission at the end of that year and that he provide the Commission, at his own expense, a credit report, at the end of that year.

Florida Auctioneer Academy

MOTION

Mr. Blocker moved the Commission approve the Florida Auctioneer Academy and Gary Smith as instructor for continuing education. Mr. Mullis seconded the motion, which carried unanimously.

Missouri Auction School

MOTION

Mr. Moody made a motion, seconded by Mr. Mullis and unanimously carried, that the Commission inform the Missouri Auction School that further information is required regarding the instructors and which courses they are teaching.

Public Comments (continued)

Mr. Broadwell addressed the Commission regarding the IRC policy. He has noted there is not consistency in the Commission's IRC process. He believes the IRC is necessary and that all complaints should move through the IRC process. He presented the members with the current IRC policy and asked the Commission to modify the policy.

Ms. Frierson asked Mr. Broadwell to attend the work session meeting, which would be set at a later date.

Mr. Larry Meares asked if the Commission if an exception could be made to allow Mr. Bailey to take an oral examination. Ms. Frierson stated the Commission had been advised, by legal counsel, on this matter and could not offer further discussions because legal counsel was no longer present. Mr. Meares was advised that he could request to be placed on the agenda for the next meeting to discuss this matter.

Adjournment

Mr. Blocker moved the meeting be adjourned. Mr. Moody seconded the motion, which carried unanimously.

The May 24, 2004 meeting of the SC Auctioneer's Commission adjourned at 12:39 p.m.