

MINUTES
South Carolina Auctioneer's Commission
Board Meeting
10:00 A.M., February 23, 2009
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

1. Meeting Called to Order

James Blocker, chairman, of Walterboro, called the meeting to order at 10:00 a.m. Other members present for the meeting included: George Martin, vice chairman, of Pelzer; Wendell Christopher, of Roebuck; Archie Moody, of Darlington; and Patsy Towery, of Columbia.

Staff members participating in the meeting included: Lenora Addison-Miles, Administrator; Robbie Boland, Office of Licensure and Compliance, David Christian, III, Assistant Deputy Director, Office of Licensure and Compliance; Sharon Dantzler, Deputy General Counsel; Sandra Dickert, Administrative Assistant; Annette Disher, Office of Licensure and Compliance; Suzanne Hawkins, Litigating Attorney, Office of General Counsel; Dwight Hayes, Office of Licensure and Compliance; Laura McDaniel, Office of Licensure and Compliance; Shirley Robinson, Hearing Advice Attorney; and Ken Woodington, Litigating Attorney.

Mr. Blocker announced that public notice of this meeting was properly posted at the S. C. Auctioneer Commission office, Synergy Business Park, Kingstree Building, 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.

Invocation

Mr. Blocker delivered the invocation.

2. Approval of Excused Absences

MOTION

Mr. Moody made a motion the Commission approve Mr. Christopher's absence from the November 17, 2008 meeting. Mr. Martin seconded the motion, which carried unanimously.

All members were present for this meeting.

3. Approval of the November 17, 2008 Meeting Minutes

MOTION

Mr. Martin made a motion the Commission approve the minutes of the November 17, 2008 meeting as written. Mr. Moody seconded the motion, which carried unanimously.

4. Chairman's Remarks – James Blocker

Mr. Blocker welcomed everyone to the meeting.

5. Administrator's Remarks – Lenora Addison-Miles

- A. *Advisory Opinions, If Needed, Office of General Counsel*
- B. *Legislative Update, If Needed, Legislative Liaison Office*

There were no advisory opinions or legislative updates given during the February 23, 2009 meeting.

Mrs. Addison-Miles stated the members should have received a memo in regard to filing the Statement of Economic Interest forms with the State Ethics Commission, which must be submitted by April 15 to avoid any penalties. She asked that the members let her know if they did not receive the memo.

Mrs. Addison-Miles stated the Auctioneer's exam was last administered on December 5, 2008. She noted there were six candidates and all six candidates passed the exam. She went on to say the average score was 78, with a high score of 85 and a low score of 71. She further stated the next exam is scheduled for March 13, 2009.

Mrs. Addison-Miles stated the ongoing case involving unlicensed practice of an out of state company which was referred to the Administrative Law Division for violation of a cease and desist order has been resolved. She further stated the party has entered into a consent agreement and paid the required \$2,500.00 fine.

C. David Christian, III, Assistant Deputy Director, Office of Licensure and Compliance

Mr. David Christian, Assistant Deputy Director, of the Office of Licensure and Compliance, briefed the Commission on the Office of Licensure and Compliance.

Mr. Dwight Hayes, Mrs. Roz Bailey-Glover, Ms. Laura McDaniel, Mr. Robbie Boland, and Mrs. Annette Disher introduced themselves and explained their duties to the Commission.

6. **Hearing in the Matter of Case # 2006-11, Case #2007-18, Case #2007-21, Case #2008-2, Case #2008-4, Case #2008-10, Case #2008-11, Case #2008-5, Case #2008-6, and Case #2008-23 ******

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

MOTION

Mrs. Towery made a motion the Commission adopt the hearing officer's findings, facts and conclusions of law and the recommended sanctions with the following amendments: the sixteen month suspension will begin when the final order is served upon the respondent, when the license is reinstated the license will be on probation for twelve months, during the probation period the respondent must complete four hours of continuing education in ethics and four hours in laws. These hours will be in addition to the required continuing education hours and the respondent must submit copies of all auction contracts and settlement sheets to the Commission. Mr. Christopher seconded the motion, which carried unanimously.

7. Unfinished Business

There was no unfinished business for discussion during the February 23, 2009 meeting.

8. New Business

A. Approval of the January 14, 2009 IRC Report

Mr. Ivan Broadwell reviewed the January 14, 2009 IRC report with the Commission.

MOTION

Mr. Christopher made a motion the Commission approve the January 14, 2009 IRC report. Mr. Moody seconded the motion, which carried unanimously.

Dismissal
2008-8

B. Recovery Fund Claims In the Matter of Boyce A. Brasington, III

Ms. Suzanne Hawkins, litigating attorney, briefed the Commission on the cases involved in this matter. She noted that these individuals were informed to wait thirty days to receive payment of funds from the auctions.

i. William Watkins

Mr. Watkins' claim and Mr. Lamb's claims are based on the same set of facts. Mr. Watkins' auction was held on May 19, 2007. He was able to contact Mr. Brasington on a couple of occasions and filed a police report on January 22, 2008. Mr. Brasington had promised Mr. Watkins payment in December 2007. Mr. Brasington failed to reimburse Mr. Watkins all of the money; however, he did pay vehicle liens which totaled approximately \$16,750.00. The recovery fund claim is in the amount \$37,818.85, which came from the sales sheet Mr. Brasington provided to Mr. Watkins. Mr. Brasington's settlement statement reflects an amount of \$64,000.75 in total sales with his fee being \$10,431.90, and the total due to seller being \$53,568.85. Mr. Brasington failed to place the monies in escrow. Mr. Watkins filed a recovery fund claim on July 14, 2008.

ii. Robert Thompson

Mr. Thompson's auction was held on February 23, 2008. He waited the 30 days after which he sent Mr. Brasington a certified letter. He filed a recovery fund claim in August 2008, which totals \$2,100.00. The order found that no disbursement was made to Mr. Thompson and she is asking that the Commission authorize total payment of Mr. Thompson claim.

iii. Blakely Lamb

Mr. Gary Finklea, Esquire, spoke on behalf of Blakely Lamb. Mr. Finklea stated Mr. Lamb sold his landscaping business to Mr. Watkins, who owed Mr. Lamb \$100,000 from the transaction. Mr. Lamb sued Mr. Watkins and obtained a judgment. After that he obtained a court order against the auction proceeds to hold in trust until a court could determine how the proceeds could be disbursed. The proceeds from the auction to be disbursed to Mr. Watkins totaled \$53,568.85. It is his understanding Mr. Brasington used some of the proceeds to pay vehicle liens, which leaves a balance due of \$37,818.85. The order in connection with the lawsuit states that Mr. Lamb is to receive \$22,229.80 and that the balance of the proceeds be remitted to Mr. Watkins. The auction contract was between Land Sense and Flowers LLC and Mr. Brasington. Mr. Finklea is now asking the Commission to hold the money in escrow to be treated as part of the proceeds of the sale of the business.

Mr. William Watkins stated he is glad to see a remedy to bring resolution to this matter. He noted the lawsuit and judgment are against the company, not against him personally. The funds need to first go to pay the sales tax and the operating expenses of the business that need to be settled prior to the funds going anywhere else.

iv. Charles Owens

Mr. Owens' auction was held on January 26, 2008. He spoke with Mr. Brasington on March 10, 2008 and was promised an accounting and disbursement of his funds, which totals \$5,771.30. He filed a recovery fund claim on December 10, 2008. He mailed a certified letter to Mr.

Brasington on December 12, 2008. The order found that no disbursement was made to Mr. Owens and she is asking that the Commission authorize total payment of Mr. Owens' claim. Ms. Hawkins noted that Mr. Owens' claim was filed after the hearing, which was held in November 2008.

Ms. Hawkins stated she agrees with Mr. Finklea that the court would probably portion the monies in Mr. Watkins case. She noted she is here today to ask the Commission to determine if the elements of the recovery fund have been met and what would happen to the funds.

Executive Session

MOTION

Mr. Martin made a motion the Commission discuss this matter in executive session to seek legal advice. Mrs. Towery seconded the motion, which carried unanimously.

Return to Open Session

MOTION

Mrs. Towery made a motion the Commission return to public session. Mr. Christopher seconded the motion, which carried unanimously.

Mr. Blocker noted for the record that no official action was taken during executive session.

MOTION

Mr. Martin made a motion the Commission pay out of recovery fund to Mr. Owens his claim of \$5,771.30, the Commission pay Mr. Thompson his claim of \$2,100.00, and that the Commission pay to Mr. Watkins and Mr. Lamb's business \$10,000.00 from the recovery fund which is to be turned over to the courts in Florence County. Mr. Moody seconded the motion, which carried unanimously.

C. Review / Approval of Application via Examination

i. *Robert Adkison – Tide Enterprises (firm)*

On January 22, 2009 the Board received an auction firm license application from Robert Adkison. Mr. Adkison answered 'no' to the question asking, "Are there any unpaid judgments of debt now outstanding against you?" However, his credit report reflects unpaid collections and liens in the amount of \$3,530.00.

Robert Adkison appeared before the Commission and offered the following testimony. When he answered the question he thought it referred to a house or a vehicle. The amounts are small and pertained to cell phones and medical bills, which he thought the insurance company paid. He was not attempting to falsify the application and thought the question referred to a large debt. He will contact the companies and pay the outstanding debts or make payment arrangements.

MOTION

Mr. Martin made a motion the Commission discuss this matter in executive session to obtain legal advice. Mrs. Towery seconded the motion, which carried unanimously.

ii. *Brad Brewster*

On December 2, 2008 the Commission received an auctioneer license application from Brad Brewster. He passed the exam in December 2008. Mr. Brewster answered 'no' to the question asking, "Are there any unpaid judgments of debt now outstanding against you?" His credit report reflects \$19,919.00 in medical collection accounts. Staff notified Mr. Brewster the

Commission would review his application during this meeting; however, was unable to appear during this meeting and provided documentation to staff stating the medical bills are the result of an accident and that he has a judgment in a civil case that orders the bills to be paid by the defendant.

MOTION

Mrs. Towery made a motion the Commission discuss this matter in executive session to obtain legal advice. Mr. Christopher seconded the motion, which carried unanimously.

iii. Charles P. Levy

On November 19, 2008 the Commission received an auctioneer license application from Charles P. Levy. He passed the exam in December 2008. His credit report reflects two tax liens and an unpaid collection account. Staff notified Mr. Levy the Commission would review his application during this meeting; however, was unable to appear during this meeting and provided documentation showing satisfaction of those tax liens and a letter the collection account does not belong to him.

MOTION

Mr. Moody made a motion the Commission grant Mr. Levy licensure. Mrs. Towery seconded the motion, which carried unanimously.

iv. Elizabeth J. Smith

On December 2, 2008 the Commission received an auctioneer license application from Elizabeth Smith. She passed the exam in December 2008. She answered 'no' to the question asking, "Are there any unpaid judgments of debt now outstanding against you?" However, her credit report reflects a lien of \$3,973.00 and an unpaid collection account of \$257.00. She provided the Commission with a written statement regarding the accounts.

Elizabeth Smith appeared before the Commission and offered the following testimony. She was unaware the items were on her credit report. The \$257.00 account relates to a Sprint phone ordered on her credit card and is in dispute. The \$3,973.00 lien is a Georgia tax lien on which she is attempting to make payment arrangements.

MOTION

Mr. Martin made a motion the Commission discuss this matter in executive session to seek legal advice. Mr. Christopher seconded the motion, which carried unanimously.

D. Review / Approval of Application via Reciprocity

i. Abraham Asher

On October 31, 2008 the Commission received a reciprocity auctioneer application from Abraham Asher. Mr. Asher is currently licensed in Florida and has been licensed in that state since 1994. He answered 'no' to the question asking, "Are there any unpaid judgments of debt now outstanding against you?" However, his credit report reflects unpaid collection accounts totaling \$2,737.00. He has submitted an email stating he is a victim of fraud and is attempting to clear the two remaining items. Staff notified Mr. Asher the Commission would review his application during this meeting; however, he was unable to appear during this meeting.

Mrs. Dantzler stated the file is identified effective approximately October 2007 for special alerts regarding fraud and the credit report is questionable for extended fraud issues.

MOTION

Mr. Martin made a motion the Commission grant Mr. Asher licensure. Mrs. Towery seconded the motion, which carried unanimously.

ii. Alan David Loeser

The Commission has received a reciprocity auctioneer application from Alan David Loeser. Staff notified Mr. Loeser the Commission would review his application during this meeting; however, he was unable to attend the meeting. He is currently licensed in Pennsylvania; however, his license was revoked in North Carolina in May 2006 for giving false statements or information on one or more renewal applications, failing to cooperate with an investigation, making one or more false statements or giving false information in connection with the Board's investigation, failing to properly disclose the numerous civil actions filed against him or Auctions Worldwide, and failing to notify the Board in writing of his change of address. In 2007 he surrendered his license in Alabama per a consent agreement and a fine. His license was also revoked in West Virginia in 2007.

MOTION

Mr. Christopher made a motion the Commission reject Mr. Loeser's application. Mrs. Towery seconded the motion, which carried unanimously.

E. **Request to End Probation**

i. Dallas Matthews

In a letter dated February 1, 2009 Dallas Matthews states his auctioneer license was granted in March 2008, with a two year probation and the condition he submit a credit report showing progress in resolving the issues listed. He has submitted documentation, i.e., cancelled checks, for the Commission's review and is requesting the Commission end his probation.

Mrs. Dantzler stated Mr. Matthews had stated last year he was involved in an estate settlement. He is now saying he has paid down most of those bills; however, there are a few that are so old no one can locate the information.

MOTION

Mr. Martin made a motion the Commission release Mr. Matthews from his probation. Mr. Christopher seconded the motion, which carried unanimously.

F. **Review / Approval of Instructor/Course for Southeastern School of Auctioneering**

i. Kris Kennedy

Mrs. Addison-Miles stated Southeastern School of Auctioneering has submitted an outline for a technology class and a resume for Kris Kennedy as an instructor.

MOTION

Mr. Christopher made a motion the Commission approve the request. Mrs. Towery seconded the motion, which carried unanimously.

G. **Ratification of Mail Ballots for CE Approval**

i. Selling Land Using the Multi-Parcel Auction Method – Mike Harper

ii. Auction Business Law – Terry Evans, Evans Education Center

Mrs. Addison-Miles stated Mike Harper had submitted a request to teach two courses at the annual convention and Evans Education Center had submitted a request to teach an auction law course. She further stated mail ballots, along with the information regarding the courses,

were mailed to the Commission members and the members were asked to vote in approval or disapproval of the courses. She noted the Commission approved both requests by ballot.

MOTION

Mr. Martin made a motion the Commission ratify the two mail ballots. Mr. Moody seconded the motion, which carried unanimously.

H. Approval of Continuing Education Class
i. Hearn Auction Services

Mrs. Towery stated Will and Cathy Hearn teach auctioneer continuing education classes for Midlands Technical College. She further stated Mr. and Mrs. Hearn have submitted Maintaining and Increasing Your Business in an Uncertain Economy as well as E-Bay – The Right Way continuing education classes to the Commission for approval. She would like to see the classes approved as a four-hour class as well as an eight-hour class. She noted each class may be presented separately and together.

MOTION

Mr. Moody made a motion the Commission approve the continuing education classes. Mr. Martin seconded the motion, which carried unanimously.

Executive Session

MOTION

Mr. Christopher made a motion the Commission enter executive session to seek legal advice on applications. Mr. Moody seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Martin made a motion the Commission return to public session. Mr. Christopher seconded the motion, which carried unanimously.

Mr. Blocker noted for the record no official action was taken during executive session.

Robert Adkison – Tide Enterprises (firm)
Brad Brewster
Elizabeth Smith

MOTION

Mr. Moody made a motion the Commission approve Mr. Adkison (Tide Enterprises), Brad Brewster, and Elizabeth Smith for licensure, that the licenses be placed in probationary status for two years, and that they submit a credit report each year showing substantial progress on their credit history. Mr. Martin seconded the motion, which carried unanimously.

Public Comments

No public comments were made during the February 23, 2009 meeting.

Election of Officers

Chairman

NOMINATION

Mrs. Towery nominated Mr. Blocker as chairman. Mr. Christopher seconded the nomination.

MOTION

Mr. Moody made a motion the nominations be closed. Mr. Christopher seconded the motion, which carried unanimously.

Vice Chairman

NOMINATION

Mr. Christopher made a motion Mr. Martin be elected as vice chairman. Mrs. Towery seconded the motion, which carried unanimously.

Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Christopher made a motion the meeting be adjourned. Mr. Martin seconded the motion, which carried unanimously.

The February 23, 2009 meeting of the S.C. Auctioneer's Commission adjourned at 2:03 p.m.