

MINUTES
South Carolina Department of Labor, Licensing and Regulation
SC Auctioneers Commission
10:00 a.m., Monday, February, 22, 2010
Synergy Business Park, Kingstree Building
110 Centerview Drive, Conference Room 108
Columbia, SC

1. [Meeting Called to Order](#)

James Blocker, chairman, of Walterboro, called the regular meeting of the Auctioneers' Commission to order at 10:02 a.m. Other members participating in the meeting included: Wendell Christopher, of Roebuck; Archie Moody, of Darlington; and Patsy Towery, of Columbia.

Staff members participating in the meeting included: Lenora Addison-Miles, Administrator; Deleon Andrews, Investigator; Sharon Dantzler, Deputy General Counsel; and Sandra Dickert, Administrative Assistant.

A video of this meeting can be viewed at www.llr.state.sc.us/POL/Auctioneers . On the Commission's home page, click 'Board Information' and follow the link to the video.

a. [Public Notice](#)

Mr. Blocker announced that public notice of this meeting was properly posted at the S. C. Auctioneers 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.

b. [Pledge of Allegiance](#)

All present recited the Pledge of Allegiance.

Mr. Blocker delivered the invocation.

2. [Approval of Excused Absences](#)

MOTION

Mr. Moody made a motion the Commission approve Mr. Martin's absence. Mr. Christopher seconded the motion, which carried unanimously.

3. [Approval of the November 16, 2009 Meeting Minutes](#)

MOTION

Mr. Moody made a motion the Commission approve the November 16, 2009 meeting minutes. Mrs. Towery seconded the motion, which carried unanimously.

4. [Chairman's Remarks - James Blocker](#)

Mr. Blocker welcomed everyone to the meeting and thanked staff for their work in preparing for the meeting.

5. [Administrator's Remarks - Lenora Addison-Miles](#)

Mrs. Addison-Miles stated three auctioneer candidates sat for the examination on December 4, 2009. She further stated all three of the candidates passed. She noted the average score was

79, the high score was 83, and the low score was 76. The next exam is scheduled for March 12, 2010.

Mrs. Addison-Miles stated as of February 18, 2010 there are 1,001 auctioneers and 159 auction firms licensed through 2011.

Mrs. Addison-Miles stated a memo, dated February 1, 2010, regarding the Statement of Economic Interest forms was mailed to all members. She further stated the forms should be filed with the State Ethics Commission by April 15, 2010. She stated if the members had any questions regarding the forms they should contact the State Ethics Commission at (803) 253-4192.

a. [Advisory Opinions, If Needed, Office of General Counsel](#)

No advisory opinions were given during this meeting.

b. [Legislative Update, If Needed, Legislative Liaison Office](#)

No legislative update was given during this meeting.

6. [Unfinished Business](#)

There was no old business for discussion during this meeting.

7. [New Business](#)

a. [Approval of February 11, 2010 IRC Report](#)

Mr. DeLeon Andrews briefed the Commission regarding the February 11, 2010 IRC report.

MOTION

Mr. Moody made a motion the Commission approve the February 11, 2010 IRC report. Mr. Christopher seconded the motion, which carried unanimously.

b. [Vehicle Auctions - Mike Tucker \(SCDMV\)](#)

Mr. Mike Tucker and Ms. Lotte Devlin Deputy Director of Vehicle Services for the Department of Motor Vehicles appeared before the Commission to discuss the law regarding vehicle auctions.

Ms. Devlin briefed the Commission regarding the sections of the law regarding dealer licenses. She further stated there are three different types of licenses for the purposes of this discussion. She said the first type of license is the wholesale auto auction license which allows a wholesale auto auction to sell wholesale to other wholesalers and dealers, but does not allow the licensee to sell vehicles to the retail public. She noted the sale of vehicles to the retail public has a much higher standard of regulatory requirements on a federal and state level and that the federal regulatory level requires that a retailer must have a buyer's guide posted on the used vehicle stating the type of available warranty. She noted wholesale auto auctions are excluded from displaying a buyer's guide as by definition they do not sell to the retail public.

Ms. Devlin stated other categories of dealerships are wholesalers, which buy vehicles in large quantities and can sell only to other wholesalers or to dealers. She further stated if the wholesalers are selling vehicles to other wholesalers they are exempted from the buyer's guide because they are not selling to the public. She noted wholesalers cannot take vehicles to a retail dealer to auction to the retail public.

Ms. Devlin stated the retail dealer license is the only entity under dealer licensing laws today that is authorized to sell directly to the retail public. She said one of the issues which have arisen is that the Department of Motor Vehicles has no problem with the model of selling vehicles at an auction; however, the way the law is written the retail dealer who is holding an auction at his retail location can only auction vehicles that he owns. She further stated the retail dealer cannot auction vehicles to the retail public at his dealership like a wholesale licensee can. Under the retail dealer licensing law a retail dealer can only sell vehicles from his own licensed place of business.

Ms. Devlin stated individuals who are conducting retail auctions essentially on consignment are not in compliance because they do not have the authority to do so. She noted the retail public should be able to ask for a bill of sale which shows that a retail dealer is authorized to sell that vehicle to the public. She said the public needs to know who they should return to if there is a problem with the vehicle and who is responsible for the warranty.

Ms. Devlin stated the Department of Motor Vehicles has received complaints from unwitting consumers who purchased vehicles at an auction don't really know who they purchased the vehicle from and are unable to locate the individual from whom the vehicle was purchased.

Mr. Moody stated the Commission is interested in knowing how many vehicles an auctioneer can sell at an estate auction, where the estate may have cars and some farm equipment.

Mr. Tucker stated there are some exemptions to the law, such as an estate auction or court ordered auctions. He noted the auction of farm equipment does not fall under the federal guidelines regarding the buyers guide or the same titling laws as vehicles.

Mr. Tucker stated a construction company or a farm company wanting to downsize can sell up to five vehicles a year without a dealer's license. He went on to say when such a company wants to sell more than five vehicles they need to follow one of two options: a licensed wholesale auction, which cannot sell to the retail public or the company may want to become a qualified dealer. He noted there are issues with such an attempt to become a dealer. He further stated a construction company or farm company that becomes a dealer can contract with an auctioneer or firm to auction the vehicles.

Ms. Devlin stated Section 56-15-10 lists the definition of a dealer and the exemptions.

Mr. Moody stated the auctioneers feel they provide a service for a business in which the owner has died and the estate is selling more than five vehicles. Ms. Devlin stated the Department of Motor Vehicles would be happy to work with the Commission to propose legislation regarding this matter.

A discussion ensued regarding bill H.3745 which was introduced in 2009 by Representative Duncan.

c. [Review / Approval of Application via Examination](#)

1. [Charles N. Maxwell](#)

On August 14, 2009 the Commission received an auctioneer's license by examination application from Charles Maxwell. Mr. Maxwell passed the exam in September 2009. He answered 'no' to question 12 on the application regarding outstanding judgments of debt;

however, his credit report contains several unpaid collection accounts totaling \$3,600.00. Mr. Maxwell's application was originally scheduled to be reviewed by the Commission in November; however, the application was deferred to allow him time to resolve some of the issues.

Mr. Maxwell did not appear during this meeting and the Commission took no action on this application.

2. [Nikkia R. Nesbitt](#)

On August 17, 2009 the Commission received an auctioneer's license by examination application from Nikkia R. Nesbitt. Ms. Nesbitt passed the exam in June 2009. Her credit report contains several unpaid collection accounts and a fraudulent check charge on her criminal history report.

Nikkia R. Nesbitt appeared before the Commission and was sworn to give correct testimony by Ms. Dantzler. Ms. Nesbitt had been employed with the SC Department of Consumer Affairs. She presented the Commission with documentation showing she is working on the items listed on her credit report. Her student loan is currently in deferment since she is currently unemployed. She attended Anderson College but did not graduate. She is working toward obtaining her real estate license and is interested in conducting real estate auctions.

MOTION

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

MOTION

Mrs. Towery made a motion the Commission grant Ms. Nesbitt a one year license on probation and at the end of the year she show progress on restitution on her credit report. Mr. Christopher seconded the motion, which carried unanimously.

3. [Old School Auction - Kodi Weaver](#)

On January 4, 2010 the Commission received an auction firm license application from Old School Auction (Kodi Weaver). Ms. Weaver passed the online firm exam on January 10, 2010. Her credit report reflects several unpaid collection accounts totaling \$12,179.00. Staff issued a cease and desist order to Old School Auction on February 16, 2010. The applicant advertised auctions on AuctionZip.com scheduled for February 19, 20, 22, 26, 27, and several in March 2010. The advertisements indicate they have auctions every Friday and Saturday night at 7:00 p.m.

Kodi Weaver appeared before the Commission at this time and was sworn to give correct testimony by Ms. Dantzler. Ms. Weaver apologized to Mrs. Addison-Miles for listening to an individual who misguided her. She did conduct a few auctions with Aquilla M. Kinard, III. There were 16 accounts listed on her credit report which is now turned into 11 accounts. She noted Central Carolina Control has turned accounts into one account. She has promised to pay beginning May 1, 2010 to allow her time to begin her auction business. She has one account under Duke Energy which has now agreed to a settlement of \$50.00. The newest item listed on the credit report is from September 2009 and is a medical bill regarding her daughter. She lives in North Carolina but conducts her business in Manning, South Carolina. She hopes to have a grocery auction on Monday, a general merchandise auction on Friday, and a draw sale on Saturday.

In 2000 when she was 17 or 18 years old she forged checks and was sentenced to pay restitution and five years probation which was considered completed within 27 months for compliance.

MOTION

Mr. Moody made a motion the Commission discuss this matter in executive session. Mrs. Towery seconded the motion, which carried unanimously.

MOTION

Mrs. Towery made a motion the Commission grant Ms. Weaver a license on a three year probation and each year she submit a progress report on her credit report and a SLED report at her expense. Mr. Christopher seconded the motion, which carried unanimously.

d. [Review / Approval of Application via Reciprocity](#)

1. [Larry Hersowitz](#)

The Commission has received an auctioneer's license by reciprocity application from Larry Hersowitz. Mr. Hersowitz is applying for licensure by reciprocity from Florida. His credit report reflects several unpaid medical collection accounts totaling \$1,002.00. Mr. Hersowitz has provided the Commission with a written explanation regarding his credit report.

Mr. Hersowitz did not appear during this meeting.

Mrs. Addison-Miles stated the explanation indicates he was not aware of the medical bills and he is in the process of following up on the accounts. She went on to say Mr. and Mrs. Hersowitz thought the bills had been paid by the insurance company.

Mrs. Addison-Miles noted Mr. Hersowitz wants to work for a licensed firm, and was licensed in Florida in 2001. He would like to conduct auctions on Hilton Head Island.

MOTION

Mr. Moody made a motion the Commission discuss this matter in executive session. Mr. Christopher seconded the motion, which carried unanimously.

MOTION

Mr. Moody made a motion deny Mr. Hersowitz's license on the basis of insufficient information. Mr. Christopher seconded the motion, which carried unanimously.

2. [Zachariah Kittrell](#)

On January 14, 2010 the Commission received an application for auctioneer license from Zachariah Kittrell. Mr. Kittrell was previously licensed in South Carolina in 2001 and allowed his license to lapse in 2007. He indicated on his application there were no outstanding judgments of debt; however, his credit report reflects an unpaid tax lien of \$50,000.00 and three I-9 accounts that were closed by the creditor or written off.

Zachariah Kittrell did not appear during this meeting. Mrs. Addison-Miles stated he did provide an explanation regarding the tax lien which she provided to Ms. Dantzler for her review.

MOTION

Mr. Moody made a motion to discuss this matter in executive session. Mrs. Towery seconded the motion, which carried unanimously.

MOTION

Mr. Christopher made a motion deny Mr. Kittrell's license until further information is received. Mr. Moody seconded the motion, which carried unanimously.

e. [Continuing Education Provider and Course Approvals](#)

1. [Burns & Associates](#)

On February 1, 2010 the Commission received a letter and information from Burns & Associates. Joe Burns is requesting the Commission's approval of three (3) courses he would like to offer: Divide & Close-Selling Land Using the Multi-Parcel Auction Method, Residential Real Estate Auctions, and Top 10 Ways to be Disciplined (approved as real estate license renewal core course).

Mr. Burns provided a full course packet as well as his credentials for the Commission's review.

MOTION

Mrs. Towery made a motion to approve Burns & Associates continuing education courses. Mr. Christopher seconded the motion, which carried unanimously.

2. [EDJ School Online, Inc.](#)

On January 16, 2010 the Commission received a letter from EDJ School Online, Inc. The company is requesting approval to provide an online continuing education course for auctioneers. The course is in two parts, each with four hours. The course is timed to ensure the student cannot continue to the next chapter until the required amount of time is spent on each chapter. Jenny Tran has included a resume for the Commission's review. EDJ School Online is approved in Texas and North Carolina for auctioneer continuing education.

MOTION

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

MOTION

Mrs. Towery made a motion to approve the two part eight hour course submitted by the EDJ Online School. Mr. Moody seconded the motion, which carried unanimously.

f. [MLS Advertising](#)

Mrs. Addison-Miles presented the members with an e-mail she received from Mike Harper regarding the possible conflict between local MLS rules and the auction law regarding listing the name and auction license in advertisements. She also included a copy of Mr. Ivan Broadwell's comments on this issue for the members' review.

Mr. Mike Harper stated there is a small conflict between the auction law and the local MLS (multiple listing service) rules in Charleston. He further stated he has heard complaints from other realtors in that area because they do not like a name listed in public comments. He noted this issue would re-appear again.

Mrs. Dantzler stated the legislature would have to make a change in the regulations, which would take two years. She went on to say the MLS service purports its own rules since it is a private organization. She noted the agency has had limited success in working with MLS and the rules vary from town to town.

Discussion ensued in which it was noted a similar problem has risen with the Columbia MLS and that there is inconsistency with the MLS in different cities.

Mrs. Dantzler stated she would work with the attorney who advises the Real Estate Commission in order to locate a contact with the MLS.

g. [Consent Agreement Penalty Reduction - H. Dennis Ashley](#)

Mr. Dennis Ashley was issued the standard consent agreement for providing a false statement on his renewal in reference to continuing education. The standard penalty for this violation is \$500.00. Mr. Ashley signed the agreement, but has submitted a written request that the Commission reduce the fine because he feels it is excessive.

In response to the continuing education audit Mr. Ashley showed he completed four hours of the required eight hours of continuing education between July 1, 2007 and June 30, 2009. He completed the additional four hour course in October 2009, which gave him the required eight hours of continuing education.

MOTION

Mr. Moody made a motion to not reduce the fine. Mrs. Towery seconded the motion, which carried unanimously.

8. [Public Comments](#)

Mike Moore of the SC Auctioneers' Association stated in 2009 all auctioneers and firms renewed licenses for two years. He further stated the state statute states licenses would be renewed on an annual basis. He went on to say the association has asked for guidance regarding the statute and the issuance of licenses. He said the association is asking for clarification and just want to know it is okay.

Mrs. Dantzler stated the legal advice received from the Governor's office is that Section 40-1-50 validates a license issued on a two year basis. She went on to say as the practice acts are opened the language is changed to reflect the biennial licensure. She noted the agency asked for outside legal advice regarding this issue prior to the issuance of the two year licenses.

9. [Executive Session](#)

MOTION

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

10. Return to Public Session

MOTION

Mr. Moody 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.

Ms. Dantzler presented the members with a list of the subcommittee members. She expects the bill to be in the Business and Commerce Committee as Mr. Hayes, one of the bill's sponsors, sits on this subcommittee.

11. [Election of Officers](#)

IRC

MOTION

Mr. Christopher made a motion to approve Ivan Broadwell as IRC chair and Rodney Lee as the alternate. Mr. Moody seconded the motion, which carried unanimously.

Chairman

MOTION

Mr. Christopher made a motion the Commission elect James Blocker as chairman. Mrs. Towery seconded the motion, which carried. Mr. Blocker abstained from voting in this matter.

Vice Chairman

MOTION

Mr. Moody made a motion to elect George Martin as vice chairman. Mrs. Towery seconded the motion, which carried unanimously.

12. Adjournment

MOTION

Mr. Moody made a motion to adjourn the meeting. Mr. Christopher seconded the motion, which carried unanimously.

The February 22, 2010 meeting of the SC Auctioneers' Commission adjourned at 12:22 p.m.