

MINUTES
South Carolina Auctioneers' Commission
Board Meeting

10:00 a.m., November 14, 2016
Synergy Business Park
110 Centerview Drive, Kingtree Building Room 108
Columbia, South Carolina

Monday, November 14, 2016

1. Meeting Called to Order

Victor Avendano, Chair, of Mt. Pleasant, called the regular meeting of the SC Auctioneers' Commission to order at 10:03 a.m. Other commissioners present for the meeting included: Matthew Holiday, Vice Chair, of Spartanburg; Joseph B. Burns, of Swansea; Ms. Michelle Pinkney, of Irmo; and Jamison Marchant, of Mt. Pleasant.

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Office of Advice Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; and Sharon Wolfe, Chief Investigator, Office of Investigation and Enforcement.

Members of the public attending the meeting were Robert Bullard, of Whitmire, SC; Linda Coats, of Wingate, NC; Mike Coats, of Wingate, NC; Teresa Easler, Southeastern Auction Sales; and Joseph Exum, of Pawleys Island, SC.

A. Public Notice

Mr. Avendano announced that public notice of this meeting was properly posted at the SC Auctioneers' Commission office, Synergy Business Park, Kingtree 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 in attendance recited the Pledge of Allegiance.

The invocation was given by Mr. Burns.

2. Introduction of Commission Members and persons attending the meeting

The Commission members introduced themselves.

3. Approval of Excused Absences

All Commission members were in attendance.

4. Approval of Minutes for the August 15, 2016 meeting.

Mr. Avendano called for approval of the August 15, 2016 minutes.

MOTION

Mr. Holiday made a motion to approve the minutes without corrections.

Mr. Burns seconded the motion, which carried unanimously.

5. Chairman's Remarks – Victor Avendano

Mr. Avendano thanked everyone for attending.

6. Administrator's Remarks – Amy Holleman

Ms. Holleman informed the Commission that the cash balance as of October 2016 was \$951,877.96 and that the Recovery Fund balance was \$114,910.72. Ms. Holleman reminded the Commission the next renewal year is 2017.

Ms. Holleman informed the Commission that, for information only, a letter from the Commonwealth of Virginia was placed in the electronic documents of the Board meeting's folder stating the Commonwealth of Virginia will no longer require continuing education for auctioneers licensed for 25 years or more and for those age 70 and older.

Ms. Holleman informed the Commission that the upcoming exams will be administered on December 2, 2016. She stated in September 2016 four applicants completed the exam with the results of three passing scores and one failing.

Ms. Holleman informed the Commission that the applicants were administered the revised exams which have been working really well. Ms. Holleman thanked Mr. Burns and Mr. Broadwell for the developing the new exams.

7. Reports

A. Investigative Review Committee (IRC) Report

Ms. Wolfe presented the August 5, 2016 IRC Reports for review. The IRC recommended the Commission dismiss Case Number 2016-19; dismiss and issue a cease and desist order for cases numbers.: 2016-3 and 2016-17, and to reconsider and dismiss case number 2015-23.

Mr. Avendano called for a motion.

MOTION

Ms. Burns made a motion that the Commission approve the IRC report as submitted.
Mr. Holiday seconded the motion, which carried unanimously.

B. Office of Investigation and Enforcement (OIE) Report – January 1, 2016 – August 5, 2016

Ms. Wolfe presented the OIE report as information only.

47 complaints received between January 1, 2016 and November 8, 2016

48 closed cases between January 1, 2016 and November 8, 2016

Mr. Avendano thanked Ms. Wolfe for the report.

C. Office of Disciplinary Counsel Report (ODC) Report

Ms. Perlman presented the ODC Report as information only. Ms. Perlman reported there was one case pending action, which was approved for dismissal today.

Mr. Avendano thanked Ms. Perlman for the report.

Application Hearings

8. Approval of Auctioneers' Application

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. Robert S. Bullard

Mr. Bullard and Ms. Easler were present on his behalf.

Ms. Holleman informed the Commission that the application is complete. Ms. Holleman informed the Commission the staff has the authority to approve an applicant with a collection balance of \$1000.00 or less. Mr. Bullard, based on his TransUnion report, has a collection balance of \$2,881.00.

Mr. Bullard informed the Commission that, after going through divorce proceeding, he became aware of the collection in June 2016. Mr. Bullard has made a payment settlement arrangement, and will complete payment of the outstanding balance of \$702.66 on May 19, 2017. Mr. Bullard submitted bank statements and a document from Portfolio Recovery Associates, LLC, supporting evidence of a payment plan and payments being made in the agreed upon amount of \$100.38 per month beginning on November 4, 2016. Mr. Bullard informed the Commission as a condition of the settlement agreement the balance owed was decreased.

Mr. Avendano stated the Commission will review all the presented information in Executive session. The final decision was deferred until after the Executive session.

Ms. Easler stated she made a payment of \$1,050.00, in the form of a gift, to Mr. Bullard's saving account to assist Mr. Bullard with reducing the outstanding balance to below \$1,000.00.

MOTION

Mr. Burns made a motion to consider this matter in Executive Session for legal advice, and that the Commission postpone Executive Session until the other matters before the Commission have been presented. The final decision will be deferred until after the Executive session.

Mr. Avendano stated the Commission will go into Executive Session for legal advice at the conclusion of all matters before the Commission.

2. Linda Boyette Coats

Ms. Coats and Mr. Mike Coats were present on her behalf.

Ms. Holleman informed the Commission that the application is complete; however, Ms. Coat's credit report received on October 26, 2016 shows a total of \$5,814.00 in medical bills that were placed in collections between 2012 and 2016.

Ms. Coats informed the Commission in 2001 she was involved in a serious automobile accident sustaining life threatening injuries requiring numerous medical procedures with an extended and strenuous, recovery. Ms. Coats has multi tiers of medical bills due to the extent of her injuries. Ms. Coats received a special surgery in 2012 that maximized her out-of-pocket with the insurance company. However, Ms. Coats stated the insurance company failed to pay its portion. Ms. Coats stated there is a discrepancy regarding the outstanding balance, and in order to resolve the issue made payment plan arrangements. Ms. Coats provided information regarding the outstanding balance and payments. Mr. Coats spoke on behalf of Mrs. Coats and concurred with her statements.

Mr. Avendano stated this matter will be discussed in Executive Session.

Mr. Avendano called for a motion to move to Executive Session to obtain legal counsel.

9. Executive Session

MOTION

Mr. Burns made a motion to go into Executive Session to receive legal advice in these matters.
Mr. Marchant seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Burns made a motion that the Commission return to public session
Ms. Pinkney seconded the motion, which carried unanimously.

Mr. Avendano, stated, for the record, that no votes were taken during executive session.

Mr. Avendano called for a motion in the case of **Robert S. Ballard**.

MOTION

Mr. Burns made a motion that Mr. Robert S. Ballard be granted a license and that in the 2017 renewal Mr. Ballard provide evidence that the account balance has been paid in full.
Mr. Marchant seconded the motion which carried unanimously.

Mr. Avendano called for a motion in the case of **Linda Boyette Coats**.

MOTION

Mr. Holiday made a motion that Ms. Linda Boyette Coats be granted a license and that in the 2017 renewals Ms. Coats will provide evidence to staff that she is up-to-date with her medical bills payment plan.
Ms. Pinkney seconded the motion which carried unanimously.

10. Approval of Continuing Education Courses

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. Auctions and the Law- South Carolina Auctioneers Convention

Mr. Burns informed the Commission that Mr. David Whitley, the course Instructor, is a member of the National Auctioneers' Association and that the course has been endorsed by the National Auctioneers' Association.

Mr. Avendano called for a motion to approve the continuing education course.

MOTION

Mr. Holiday made a motion to approve the Auctions and the Law course being presented by David P. Whitley for two continuing education credits.
Mr. Burns seconded the motion which carried unanimously.

2. Estate Presentation – South Carolina Auctioneers Convention

Mr. Avendano called for a motion to approve the continuing education course.

MOTION

Mr. Burns made a motion to approve the Estate Presentation course being presented by David P. Whitley for two continuing education credits.
Mr. Merchant seconded the motion which carried unanimously.

11. Approval of Continuing Education Instructor

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. David P. Whitley, CAI, CES

Mr. Avendano called for a motion to approve Mr. David P. Whitley as an Auctioneer continuing education instructor.

MOTION

Mr. Merchant made a motion to approve Mr. David P. Whitley as an instructor
Mr. Burns seconded the motion which carried unanimously.

12. Approval of Meeting Dates/Calendar for 2017

1. 2017 Proposed Meeting Dates

Mr. Avendano called for a motion to approve the South Carolina Auctioneers' Commission 2017 meetings as follows:

Monday, March 6, 2017	Room 105
Tuesday, May 16, 2017	Room 108
Tuesday, August 15, 2017	Room 108
Monday, November 6, 2017	Room 105

MOTION

Mr. Holiday made a motion to approve the above South Carolina Auctioneers' Commission 2017 meeting dates.

Mr. Marchant seconded the motion which carried unanimously.

13. Board Overview from the Office of Advice Attorney, Office of Enforcement and Investigations, and Office of Disciplinary Counsel

The proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Ms. Darra Coleman, Office of Advice Counsel, provided the introduction, and explained the purpose for the overview. Ms. Coleman provided an overview of the Selected Board Issues section.

Ms. Wolfe presented the information for the Office of Enforcement and Investigations. Ms. Lewis, Office of Advice Counsel, and Ms. Perlman. Office of Disciplinary Counsel provided clarification regarding the investigation process, and recommendations/actions. Both provided additional information during the overview. Ms. Lewis, cited **SECTION 40-1-90** regarding the Commission role after the investigation.

SECTION 40-1-90 Disciplinary action proceedings:

(A) The results of an investigation must be presented to the board. If from these results it appears that a violation has occurred or that a licensee has become unfit to practice the profession or occupation, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40-1-120. No disciplinary action may be taken unless the matter is presented to and voted upon by the board. The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section.

Investigative Process

- Initial complaint reviewed by Complaint Analyst.
- Case opened for investigation if allegations implicate the practice act.
- Complainant sent “do not open” letter if allegations fall outside of jurisdiction of Board’s authority under practice act.
- If additional information is needed for a determination, Complainant sent a letter requesting additional information.

Authorization for Investigation

- If case is opened, it is assigned to investigator by the respective Chief Investigator.
- Cases generally investigated in the order in which they come into to the agency unless it is a priority case involving potential imminent danger.
- The length of investigations vary depending on the nature of the issues, whether other agencies are investigating the Respondent, or how quickly information can be obtained from relevant sources.
- Average investigation 60 days to 180 days.

Chief Investigator / Supervisor Review

- Once an investigation is complete, it is submitted to the Chief Investigator to review for completeness and quality of reports.
- If Chief Investigator determines that the case has been fully investigated and all documentation is in order, it is ready for submission to the Investigative Review Committee (IRC).

Investigative Review Committee (IRC)

- Once investigation is complete, the case is set to be heard by the IRC.
- The IRC is comprised of the investigator, chief investigator, ODC attorney, board administrator and outside professional members who are licensees in good standing and not current board members (the professional members serve to provide the expertise in the subject matter of that profession or occupation).
- Each member of the IRC brings a unique perspective to the IRC meeting.
- IRC reviews the evidence gathered during the course of the investigation in relationship to the alleged violations under the practice act and makes a recommendation as to the disposition of the case to the board.
- Recommendations include dismissal, dismissal with LOC, issuance of C&D; or formal action which includes either a formal complaint without negotiation, Consent Agreement based on Resolution Guidelines, MOA, or issuance of a citation, if the latter is an available option under the specific board’s practice act).

Additional Points about Investigations

- IRC can refer case for further investigation.
- Neither Respondent nor Complainant present at IRC.
- ODC available for legal assistance during course of investigation.

- Cases can be referred to an Expert Reviewer if the nature of the allegations require such referral.
- No communication with Board members during investigative process to ensure fairness of process and avoidance of taint issue.

Additional Points about Investigative Process

- Chief Investigator for respective board presents IRC recommendations for board approval. The report will contain a “logic” section which explains why the IRC came to its recommendation.
- The IRC report will not contain any identifying aspects of the case (name of complainant, respondent, etc.) so as to avoid any potential for taint.
- If case is approved for dismissal or dismissal with LOC, the appropriate letters are sent to the Respondent and Complainant by board staff.
- If case is approved for formal action, it is transferred to ODC for appropriate action.

Selected Board Issues – Office of Advice Counsel

- Grounds and Sanctions Allowed in Disciplinary Matters
- Preserving Objectivity (What Must Remain Confidential)
- Freedom of Information Act (What Must Remain Public)
- Review of Resource Materials

14. Adjournment

Mr. Avendano called for a motion to adjourn the meeting.

MOTION

Mr. Burns made a motion the Board adjourn the meeting.

Ms. Pinkney seconded the motion, which carried unanimously.

Chair Avendano, after ensuring there being no further business to discuss, adjourned the November 14, 2016, meeting of the South Carolina Auctioneers’ Commission at 1:27 p.m.

The next meeting of the South Carolina Auctioneers’ Commission is scheduled for March 6 2017, at 10:00 a.m. at Synergy Business Park, 110 Centerview Drive, Kingstree Building Room 105, Columbia, South Carolina.