

MINUTES

South Carolina Auctioneers' Commission Meeting

10:00 a.m., March 23, 2021
Virtual/Teleconference Commission Meeting

Tuesday, March 23, 2021

1. Meeting Called to Order

Victor J. Avendano, Chairperson, of Mount Pleasant called the regular meeting of the South Carolina Auctioneers' Commission to order at 10 a.m. Other commissioners present for the meeting included: Matthew Holiday, Vice Chairperson, of Spartanburg, Joseph B. Burns, of Swansea, Julian R. Dixon, Jr. of Sumter, and Lisa K. Davey, of Sumter.

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Office of Advice Counsel; Shayla Hayes, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; and Kathy Meadows, Office of Investigations and Enforcement.

Members of the public attending the meeting: Johnathan Ammons, Michael E. Atwater, Esq., Joseph Panico, Jackie D. Bennett, Charles Lines, Elaine Simons, and Julee A. Johnson

A. Public Notice

Mr. Avendano announced that public notice of this meeting was properly posted at the SC 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. The meeting will be held via video and teleconference. Members of the public who wish to attend may do so by telephone. For telephone logon information, please email contact.auctioneer@llr.sc.gov.

2. Introduction of Commission Members

The Commission members introduced themselves.

3. Approval of Excused Absences

All members of the Commission were present.

Mr. Avendano called a motion to amend the agenda, and move the disciplinary hearing before the application hearing.

MOTION

Mr. Burns made a motion that the Commission amend the agenda and move the disciplinary hearing before the application hearing. Mr. Dixon seconded the motion, which carried unanimously.

4. Approval of Minutes from the November 17, 2020 meeting

The Commission members reviewed the minutes. Mr. Avendano called for a motion.

MOTION

Mr. Dixon made a motion to approve the November 17, 2020 minutes as presented. Mr. Holiday seconded the motion, which carried unanimously.

5. Remarks – Victor Julio Avendano, Chairperson

Mr. Avendano thanked everyone for attending and welcomed the new commissioner, Lisa K. Davey. Ms. Davey introduced herself to the Commission.

6. Administrator's Remarks – Amy Holleman

A. Financial Report

Ms. Holleman welcomed Ms. Lisa K. Davey to the Commission. Ms. Holleman informed the Commission that the cash balance at the end of February 28, 2021, was \$720,151.33 and the Recovery Fund balance was \$130,143.61.

Ms. Holleman informed the Commission that the South Carolina State Ethics Commission requires that each Commissioner completes the Statement Economic Interest report by noon on March 30, 2021.

Ms. Holleman informed the Commission that licensees will renew this year and that the agency will begin issuing renewal notices on April 15, 2021.

Mr. Avendano was experiencing connectivity issues during the Administrator's remarks.

7. Reports

A. Investigative Review Committee (IRC) - Kathy Meadows

Ms. Meadows asked that the Commission review and approve the March 17, 2021 Investigative Review Committee Report and recommended the dismissal of cases 2020-16, 2020-17 and 2020-20; issue a formal complaint for case 2020-13; and issue a letter of caution for cases 2019-19 and 2020-18.

Mr. Avendano called for a motion in this matter.

MOTION

Mr. Burns made a motion to approve the Investigative Review Committee's recommendations. Mr. Dixon seconded the motion, which carried unanimously.

B. Office of Investigation and Enforcement (OIE) – Kathy Meadows

Ms. Meadows presented the OIE report as information only. There are two active investigations, six do not open; one pending IRC; one pending further information; six pending Board action and nine closed.

C. Office of Disciplinary Counsel Report (ODC) – Shayla Hayes

Ms. Hayes presented the ODC Report as information only: two open cases, two cases pending hearings/rescheduling, and four closed cases.

9. Disciplinary Hearing

A. Case Nos.: 2018-5 & 2018-8

This hearing is confidential and the transcript is sealed.

The Respondent and Michael E. Atwater, Esq. appeared before the Commission.

Ms. Shayla Hayes represented the State and presented the Memorandum of Agreement to the Commission. Ms. Hayes informed the Commission that both parties agreed to the stipulations of facts stated in the Memorandum of Agreement.

Mr. Atwater addressed the Commission confirming that the respondent agrees with the information presented by the State. Mr. Atwater stated that he is presenting the mitigations and explanation of the transactions to the Commission.

The Commission questioned Mr. Atwater regarding this matter.

Executive Session

MOTION

Mr. Dixon made a motion to go into executive session to receive legal advice. Mr. Holiday seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Burns made a motion to come out of Executive Session. Mr. Holiday seconded the motion, which carried unanimously.

Mr. Avendano noted, for the record, there were no votes taken during Executive Session.

Mr. Avendano called for a disposition in this matter.

MOTION

Mr. Dixon made a motion that in the matters of Case Nos.: 2018-5 and 2018-8 that the Commission suspends the Respondent's license for a period of three years. In addition, the respondent must complete an additional 2 hours of continuing education training and pay a five-thousand (\$5000.00) dollar fine. The Commission shall conditionally stay the three year suspension after 18 months, thereafter; the Respondent shall serve an 18 month probationary period. The stay is conditional pending that within the first 18 months the Respondent completes an additional 2 hours of continuing education training on escrow account management and financial responsibility by an approved provider, provides an updated credit and criminal history report, and pay the fine. If the Respondent fails to comply with the additional conditions within the first 18 months, but does so prior to completing the three year suspension, the respondent's license shall remain in suspension until the Respondent complies with the additional conditions and serve the remainder of the three year period on a probationary status. If the Respondent fails to comply with the additional conditions within the three year suspension, the license shall remain suspended until the Respondent complies with the terms of the conditions and thereafter reinstate/relicensed according to the terms of the statute.

Mr. Holiday seconded the motion, which carried unanimously.

8. Application Hearings

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

A. Auctioneers' Application

1. Joe Panico

Mr. Joseph Panico appeared before the Commission on his own behalf.

Ms. Holleman informed the Board that the application is complete. Ms. Holleman stated that Mr. Panico answered "yes" to the application question regarding judgements, liens or claims filed against the applicant within the past five years. Mr. Panico confirmed that he has a sales tax lien in excess of \$1,000.00 (one thousand dollars).

Mr. Panico addressed the Commission and stated that currently his lawyer and the State of West Virginia are in negotiations regarding this matter.

Mr. Panico stated that since 2012 he has owned and operated two business entities and that due to an administrative management change the appropriate taxes were not paid. Since this occurrence, he has engaged the services of an accounting firm that assisted with the audit to rectify the problem.

Mr. Avendano called for a disposition in this matter.

MOTION

Mr. Holiday made a motion to approve the application and allow Mr. Panico to take the South Carolina Auctioneers' exam. Mr. Dixon seconded the motion, which carried unanimously.

2. **Jackie DeWayne Bennett**

Mr. Jackie DeWayne Bennett appeared before the Commission on his own behalf.

Ms. Holleman informed the Commission that the application is complete. Mr. Bennett initially appeared before the Commission on November 12, 2019 regarding his Auctioneer Apprentice application. The Commission then stated that Mr. Bennett shall appear before the Commission with documented proof of a reasonable reduction of the debt to the satisfaction of the Commission prior to the renewal of the apprenticeship or an approval of an initial Auctioneer's application. Staff provided the Commission an updated credit report.

The Commission questioned Mr. Bennett regarding this matter.

MOTION

Mr. Holiday made a motion that the Commission approve the auctioneer's application and grant him permission to take the auctioneer's exam. Mr. Dixon seconded the motion, which carried unanimously.

3. **Charles Lines**

Mr. Charles Lines appeared before the Commission on his own behalf.

Ms. Holleman informed the Commission that the application is complete; however, staff was unable to approve the application due to the Arizona criminal background reports. The applicant has resided in the state of Arizona for the past five years. Ms. Holleman stated that due to the state being a closed state the report lacked any identifiable information.

Mr. Lines clarified that he is applying for licensure by reciprocity from the state of Louisiana.

He stated that he has an active license in Texas, Arizona, and Louisiana.

Mr. Avendano asked for a disposition in this matter.

MOTION

Mr. Holiday made a motion to approve the licensure by reciprocity. Mr. Dixon seconded the motion, which carried unanimously.

4. **Julee Johnson**

Ms. Julee Johnson appeared before the Commission on her own behalf.

Ms. Holleman informed the Commission that the application is complete; however, staff was unable to approve the application due to Ms. Johnson's credit report listing over \$1,000.00 (one-thousand dollars) in collections.

Ms. Johnson stated that the collections are a result of a student loan and that she currently has a payment resolution with the Missouri Department of Education.

Mr. Avendano asked for a disposition in this matter.

MOTION

Mr. Dixon made a motion that the Commission approves Ms. Julee Johnson to take the auctioneer's exam. Mr. Burns seconded the motion, which carried unanimously.

10. Purebred Livestock Auctioneer

Ms. Holleman informed the Commission that many individuals have inquired whether statute requires an exam to license as a Purebred Livestock Auctioneer. Ms. Holleman stated that Statute 40-6-230(B) does not require an exam to be taken for Purebred Livestock Auctioneering. Ms. Holleman asked that the Commission provide a statement regarding Purebred Livestock Auctioneer licensing.

MOTION

Mr. Dixon made a motion that the Commission affirms statute 40-6-230(B) with the notation that this only applies to purebred livestock. Mr. Holiday seconded the motion, which carried unanimously.

11. Legislative Contact

Ms. Holleman asked that the Commission confirm the legislative contact for the Commission.

MOTION

Mr. Dixon made a motion that Mr. Matthew Holiday continue to serve as the legislative contact with the Commission Chairperson as the alternate. Mr. Burns seconded the motion, which carried unanimously.

12. Commission Training Session Date – Georgia Lewis, Advice Attorney

Ms. Lewis informed the Commission that the Board training session will be conducted at the next Commission meeting.

13. Public Comments (no votes taken)

There were no comments from the public.

14. Executive Session

15. Return to Public Session

16. Adjournment

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

MOTION

Mr. Burns made a motion to adjourn the Commission meeting. Mr. Dixon seconded the motion, which carried unanimously.

Mr. Avendano, after ensuring there being no further business to discuss, adjourned the March 23, 2021 meeting of the South Carolina Auctioneers' Commission at 2:18 p.m.

The next scheduled Commission meeting for the South Carolina Auctioneers' Commission is May 18, 2021.