

**MINUTES**  
**South Carolina Auctioneers' Commission**  
**Special Meeting**

1:00 p.m., April 9, 2013  
Synergy Business Park  
110 Centerview Drive, Kingstree Building Room 108  
Columbia, South Carolina

**Meeting Called to Order**

James Blocker, chairman, of Walterboro, called the special meeting of the Auctioneers' Commission to order at 1:04 p.m. Other members participating in the meeting included: Victor Avendano, of Mt. Pleasant; Michelle Pinkney, of Irmo; and Joe Burns, of Swansea.

Staff members participating in the meeting included: Lenora Addison-Miles, Administrator; Georgia Lewis, Advice Counsel; and Theresa Garner, Program Assistant.

**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.

**Pledge of Allegiance**

All present recited the Pledge of Allegiance. The invocation was given by Mr. Blocker.

**Approval of Excused Absences**

**MOTION**

Mr. Burns made a motion to accept the excused absence of Mr. Matthew Holiday. Mr. Avendano seconded the motion which carried unanimously.

**Chairman's Remarks – James Blocker**

Mr. Blocker welcomed everyone, and commended staff for always having everything in order.

**New Business**

**Governor's Regulatory Review Task Force**

Mrs. Georgia Lewis, Advice Counsel, referenced board members to Governor Nikki Haley's letter, dated February 20, 2013, that was sent to Title 40 Boards and Commissions. She said the Governor has asked that all agencies, required or mandated, under the Administrative Procedures Act, have their boards and commissions review all current rules, statutes, regulations and policies under the guides of there being any burden to the South Carolina economy. She referenced them to page two, Agency Directives, Section II.

Section II (1)(a) of Executive Order 2013-02 states "Each agency shall comprehensively review all current and proposed statutes, rules, regulations, and policies in order to assess their effects on South Carolina's economy and to determine whether their costs to businesses and employers outweigh their intended benefits."

Section II(1)(b) states “In evaluating statutes, rules, regulations, and policies, each agency should consider factors to include, but not limited to, their necessity, complexity, efficiency, effectiveness, redundancy, public complaints or comments, short- and long-term effects, impact on all affected persons, both intended and unintended, and unintended negative consequences.”

Mrs. Lewis stated the “B” part was the approach she has taken with other boards that she is involved in, reviewing the rules, regulations and policies, but certainly asking the staff for input on questions that are frequently asked by licensees, the application process, any complaints or continued questions that come about more often than others. The process would involve reviewing policies that are in use now, and considering making them part of the regulations; reviewing any particular issues with disciplinary actions; and including membership in associations involved with particular boards and if they attend conferences. Once she has compiled the information, it will be forwarded to the executive staff at LLR, formatted and eventually sent to the Governor. Basically any problems or concerns, any procedures or ways to improve, also the boards can list the positives of the board, and give reasons why their boards are important, how they protect the public, and explain why Auctioneers should be licensed. Mrs. Lewis stated that in her report, she included positive remarks regarding the boards she represents. She asked Administrator, Lenora Addison-Miles if she had any issues or complaints to report.

#### **Lenora Addison-Miles, Administrator**

Mrs. Miles stated that the board does not receive a lot of complaints, especially with the application process. For the most part they are processed the same day they are received, unless the applicant does not submit a completed packet, and then staff would have to wait until the additional documentation is received. If everything is in order, staff processes and issues the license. There are instances where an individual may have credit issues and based on the Board’s established guidelines regarding unpaid collection accounts, the individual would have to come before the Board.

She said the only inquiry the board receives, and she was not sure it was a burden on the economy, is regarding the scope of practice for auctioneering. The statute is not specific regarding acceptable methods of the auction process, and internet auctions which the law does not address.

#### **Georgia Lewis, Advice Counsel**

Mrs. Lewis, Advice Counsel, asked if unlicensed practice was a problem. Mrs. Miles stated it could be, but the board can issue Cease and Desist orders. Mrs. Lewis asked Mrs. Miles if the board had “frequently asked questions” on their website, and were they updated regularly. Mrs. Miles said, “Yes.”

Mrs. Lewis, Advice Counsel, asked Mrs. Miles to explain the process for Consent Agreements for unlicensed practice. She asked if this was a policy or was it based on statutes. Mrs. Miles said that was based on parameters for disciplinary action guidelines the boards were asked to create. She said that was part of the resolution guidelines for the complaint process.

#### **Victor Avendano, Vice Chairman**

Mr. Avendano said the board was currently trying to battle the annual licensure versus the one year (Section 40-6-50). Mr. Blocker said that was being argued on the April 10<sup>th</sup>. Mr. Avendano asked about internet auctions. He stated the board mentioned before they were here to protect

the public. He said New Hampshire had changed their laws to enhance and to protect the public and the auctioneer. He stated as it stands in South Carolina they have several businesses doing auctions on the internet platform that are not auctioneers or auction firms. He asked what could the board do, how can they fix this to protect the public and the auctioneer from being smeared in the future. Discussion ensued. Mrs. Miles stated in the past she had received advice from counsel, that if someone is physically located in South Carolina and they are conducting online auctions, then, it is within the board's jurisdiction to regulate them.

Mr. Blocker asked Mrs. Lewis, Advice Counsel, to review the laws for online auctions in the following states: New Hampshire, Arkansas, Kentucky, and Tennessee, and see if we could pattern our laws after one of those states so that we could incorporate internet auctions into our regulations.

Mr. Avendano stated at the last meeting they discussed Real Estate Agents, which are regulated but they are also having auctions, whether they are calling it "Round Robin" or something else.

Georgia Lewis, Advice Counsel, stated she would look into the Real Estate law to see what it says regarding having auctions. Mrs. Miles said the Real Estate Commission does have a policy based on their law Section 40-57-30, which states "a licensed auctioneer may call a Real Estate Auction without a Real Estate license if a licensed Real Estate Broker is engaged to handle the Real Estate transaction. If the auctioneer does not also have a Real Estate license, his duties must be limited to calling the bids for the auction. The Real Estate Broker must render all agency disclosures; prepare all contracts, and other real estate forms. The Broker must place into his Real Estate Trust Account all earnest money received. All advertisements for the Real Estate Auction must identify the name of Real Estate Broker's company."

Mrs. Lewis, Advice Counsel, said she thought this would cover the auctioneer part of the transaction. It says it's acceptable if the auctioneer does not have a real estate license, he can still conduct the auction. She said she was going to include that as part of the board's procedures that they are working with the real estate group.

### **Public Comments**

There was no one present from the public, and the option was available for them to attend and provide their input.

### **Executive Session**

The commission did not enter into executive session.

### **Adjournment**

There being no further discussion, the meeting was adjourned at 2:05 p.m.

The next meeting of the SC Auctioneers' Commission is scheduled for May 13, 2013.