

MINUTES
South Carolina Auctioneers' Commission Meeting

10:00 a.m., March 5, 2019
Commission Meeting
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Tuesday, March 5, 2019

1. Meeting Called to Order

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

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Office of Advice Counsel; Donnell Jennings, Assistant Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; and Rodney Pigford, Chief Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting: Terry Lynn Hyatt

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.

B. Pledge of Allegiance

All present recited the Pledge of Allegiance.

Mr. Burns gave the invocation.

2. Introduction of Commission Members

The commission members introduced themselves.

3. Approval of Excused Absences

All members of the Commission were present.

4. Approval of Minutes for the November 28, 2018 meeting

Mr. Avendano called for approval of the November 28, 2018 minutes. The Commission members reviewed the minutes.

MOTION

Mr. Dixon made a motion to approve the November 28, 2018 minutes as presented. Mr. Burns seconded the motion, which carried unanimously.

5. Chair's Remarks – Victor Avendano

Mr. Avendano thanked everyone for attending and thanked staff.

6. Administrator's Remark – Amy Holleman

1. Financial Report

Ms. Holleman informed the Commission that the cash balance at the end of January 2019, was \$863,468.22 and that the Recovery Fund balance at the end of January 2019 was \$129,201.13.

2. Ethics Commission Statement of Economic Interest

Ms. Holleman reminded the Commission that each member must electronically file the Statement of Economic Interest with the Ethics Commission no later than March 30, 2019.

Ms. Holleman informed the Commission that renewals will begin in the middle of April 2019. The agency has sent an e-blast requesting that all licensees confirm their email address through a link provided in the email.

Staff will administer the next auctioneers' exam on March 29, 2019.

7. Reports

A. Investigative Review Committee (IRC) – Rodney Pigford

Mr. Pigford presented the IRC recommendations as of February 19, 2019, that the Commission dismiss Case: 2018-10 and file formal complaint Case: 2018-5.

Mr. Avendano called for a motion in this matter.

MOTION

Mr. Burns made a motion to accept the Investigative Review Committee's recommendations. Ms. Pinkney seconded the motion, which carried unanimously.

B. Office of Investigation and Enforcement (OIE) - Rodney Pigford

Mr. Pigford presented the OIE report as information only, that between January 1, 2019 and February 26, 2019 there were three active cases, two do not open cases and five closed case. Between January 1, 2018 and December 31, 2018 there remains one active investigation; five closed and two do not open cases.

C. Office of Disciplinary Counsel Report (ODC) – Donnell Jennings

Mr. Donnell Jennings presented the ODC Report as information only: one case open, one pending a hearing, two Memorandums of Agreement, and one Cease and Desist.

New Business

8. Application Hearings

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

A. **Approval of Auctioneer's Application**

1. Terry Lynn Hyatt

Mr. Terry Lynn Hyatt appeared before the Commission on his own behalf.

Ms. Holleman informed the Commission that the application is complete. Mr. Holleman informed the Commission that Mr. Hyatt currently has more than \$1,000.00 in collections on his credit report. Ms. Holleman reminded the Commission that the Administrator does not have the authority to approve an application with more than \$1,000.00 in collections. Ms. Holleman stated that the majority of the collection is with Walden University as of February 2, 2019 the amount was \$2,217.00. Mr. Hyatt has additional medical collections in excess of \$1,000.00.

Mr. Hyatt addressed the Commission. He stated that due a prolonged medical condition he was unable to meet his financial obligations. Mr. Hyatt stated he has been disabled since 2013. He stated that the medical bills resulted when the medical provider filed the claims with the wrong provider. He stated that he informed the medical provider

The Commission questioned Mr. Hyatt regarding this matter.

Mr. Avendano asked the Commission for a motion for the disposition on this matter or a motion to go into Executive Session to seek legal advice on this matter.

Executive Session

MOTION

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

Return to Public Session

MOTION

Mr. Burns made a motion to come out of Executive Session. Mr. Dixon 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

Ms. Pinkney made a motion that the Commission approves the application for Mr. Terry Lynn Hyatt with the conditions that Mr. Hyatt submit a credit report every six months as proof that he is working toward reducing his debts and that he establishes an escrow account. Mr. Holiday seconded the motion, which carried unanimously.

AMENDMENT TO ORIGINAL MOTION

Mr. Burns made an amendment to the motion that the license issued, subject to Mr. Hyatt passing the exam, be probationary subject to Mr. Hyatt meeting the conditions set by the Commission. Ms. Pinkney accepted the amendment to the motion. Mr. Holiday seconded the amended motion, which carried unanimously.

Ms. Holleman asked for clarification regarding the probationary period the Commission confirmed that Mr. Hyatt will remain on probation until the collection items on the February 11, 2019 credit report has been resolved.

9. Continuing Education Reciprocal Agreement - Virginia

Ms. Holleman presented the Virginia Continuing Education Reciprocal Agreement. Ms. Holleman informed the Commission that the agreement provides for mutual acceptance by both boards of continuing education credits earned in either state. The Commission reviewed the agreement. Mr. Avendano stated, if approved, he grants the use of his electronic signature for this agreement.

Mr. Avendano called for a motion in this matter.

MOTION

Mr. Holiday made a motion to accept the Virginia Continuing Education Reciprocal Agreement with the Commonwealth of Virginia, and grant authorization for the Chairperson, Victor Avendano, to sign the agreement. Mr. Dixon seconded the motion, which carried unanimously.

10. Continuing Education Committee

Ms. Holleman explained that CE Broker is now providing the continuing education process for the Auctioneer Commission. Ms. Holleman asked that the Commission elect a Continuing Education Committee to review the continuing education application.

Mr. Avendano called for nominations to the Continuing Education Committee.

MOTION

Mr. Burns made a motion to appoint Mr. Matthew Holiday and Mr. Julian "Rafe" Dixon as members of the South Carolina Auctioneers' Commission Continuing Education Committee to review, approve, or deny applications submitted to CE Broker for continuing education. Ms. Pinkney seconded the motion, which carried unanimously.

11. Legislative Updates

Ms. Holleman informed the Commission has two legislative items, the prorated fees, and the regulation review.

12. Executive Session

Mr. Avendano called for a motion to go into Executive session with staff to receive legal advice regarding criminal reports.

MOTION

Mr. Burns made the motion to go into Executive session with staff to receive legal advice regarding criminal reports. Mr. Dixon seconded the motion, which carried unanimously.

13. Return to Public Session

MOTION

Mr. Burns made a motion to come out of Executive session. Ms. Pinkney seconded the motion, which carried unanimously.

Mr. Avendano called for a motion for the Commission's interpretation of how staff handles criminal convictions greater than five years. Ms. Lewis asked for any discussion.

Ms. Lewis explained that for purposes of the record, the Commission reviewed section 40-6-230(A) (4) eligibility requirements for a license as auctioneer. It states that the applicant "provide a criminal history conviction record from the South Carolina Law Enforcement Division and affirm that the applicant has not been convicted of a felony or any other crime involving fraud or moral turpitude during the preceding five years.

Ms. Lewis stated additional statute 40-6-130 states, "Grounds for disciplinary action as basis for denial of licensure. The Commission may deny licensure to an applicant based on the same grounds for which the Commission may take disciplinary action against a licensee as provided in Section 40-1-130.

SECTION 40-1-130. Board's authority to sanction.

A board may deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this article or the licensing act of the respective board. A board must deny authorization to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure contained in the respective board's licensing act. The applicant shall demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license.

Ms. Lewis read Section 40-6-110(A) (7), which states person that has "been convicted of a felony or an act involving fraud or moral turpitude". Ms. Lewis stated this statute does not have a five year limitation.

The Commission reviewed and discussed this matter.

MOTION

Mr. Holiday made a motion that the Commission instructs the Administrator to notify the Commission of applicants with a felony history greater than five years. Mr. Dixon amended the motion stating staff shall review and update the application with the change. Mr. Holiday accepted the amendment. Mr. Dixon seconded the motion, which carried unanimously.

Ms. Lewis stated that staff will continue to notify the Commission of applicants convicted of a felony or any other crime involving fraud or moral turpitude less than five years from the date of the application.

14. Election of Officers

Ms. Holleman opened the floor for nominations for the Chairperson. Mr. Burns nominated Mr. Victor Avendano. Ms. Holiday seconded the nomination. There were no discussions or other nominations. Ms. Holleman closed the nomination on the said name which the Commission voted unanimously for Mr. Avendano to serve as Chairperson.

Mr. Avendano opened the floor to nominations for the Vice Chairperson. Mr. Burns nominated Mr. Matthew J. Holiday. There were no other nominations. The Commission voted unanimously for Mr. Mathew J. Holiday to serve as Vice Chairperson.

15. Public Comments (no votes taken)

There were no public comments.

16. Adjournment

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

MOTION

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

Mr. Avendano, after ensuring there being no further business to discuss, adjourned the March 5, 2019, meeting of the South Carolina Auctioneers' Commission at 1:15 p.m.

The next scheduled Commission meeting for the South Carolina Auctioneers' Commission is May 14, 2019, at 10:00 a.m. at Synergy Business Park, 110 Centerview Drive, Kingstree Building Room 108, Columbia, South Carolina.