

**MINUTES  
BOARD OF AUCTIONEERS  
Conference Call  
September 25, 2003  
10:00 A.M.**

**CALL TO ORDER**

Chairman Fred Dietrich called the meeting to order at 10:05 a.m.

**ROLL CALL**

The following members were present:

Fred Dietrich, Board Chair  
Joann (Jodi) Hill, Board Member  
Annette Elms, Board Member  
Craig Accardo, Board Member  
Michael Moecker, Auction Company Principal

**Staff Present**

Julie Malone, Executive Director, DBPR  
Donna Salters-Thomas, Government Analyst, DBPR  
Mark Whitten, Deputy Director, Director of Professions & Regulation  
Jerry Wilson, Deputy Director of Professions & Regulation  
Erica Glover, Assistant Attorney General  
Mary Ellen Clark, Assistant Attorney General  
Charlie Pelligreni, Assistant General Counsel  
Ron Safford, Division of Professions & Regulation  
Allen Mortham, Legislative Affairs, DBPR

**Others Present**

Victoria Torres, Applicant  
Jason Trunzo, Applicant  
Mark Cleatious Thomas, Applicant  
Eddie Tanner, Paralegal Specialist  
June Nash, Employer of Applicant

The meeting was opened with a roll call and a quorum was established.

**APPROVAL OF MINUTES**

The minutes of the June 26, 2003, were approved with no changes. The motion was offered by Michael Moecker and seconded by Annette Elms. The motion passed unanimously.

It was noted that the disciplinary cases for this meeting were pulled due to notification error to the respondents.

Applications for Michael Joyce and Todd Buchard were pulled, as they had not yet submitted any information requested concerning their criminal history.

### **CONSIDERATION OF APPLICATIONS**

Victoria Torres, application # 909, was sworn in by Ms. Glover. Ms. Torres addressed the board concerning her criminal history. June Nash, Ms. Torres' employer, spoke on her behalf. Mr. Moecker moved to approve her application. The motion was seconded by Ms. Hill and passed unanimously.

Jason Trunzo, application #58, was presented to the board for consideration. Mr. Trunzo was sworn in by Ms. Gover. Mr. Trunzo addressed the board concerning his criminal history. Mr. Moecker moved to accept the application. Mr. Accardo seconded the motion, and the motion passed unanimously.

Marilou McKenzie, application #901, was presented to the board for consideration. Ms. McKenzie was not present on the call. There were some concerns expressed by Ms. Elms regarding what she observed this applicant doing at a real estate auction. The board was reminded that they could only consider what is on the application. The application was reviewed and discussed. Mr. Moecker moved to approve the application. It was seconded by Mr. Accardo and passed unanimously.

Mark Cleatious Thomas, application # 4802, was tabled from the June 26, 2003 board meeting with a request that he provide additional information to the board regarding discipline history on file from the Texas Auctioneers Board. Mr. Thomas submitted a letter of certification from the board of Texas regarding the status of his license. Mr. Thomas was on the line and was sworn in by Ms. Glover. Mr. Thomas addressed the board explaining the discipline imposed on his Texas license. He indicated that he did not know the source of the disciplinary reports. He further explained that he was only involved in one lawsuit, however, no allegations were directed toward him. He explained that the only discipline imposed against him was for expiration on February 26, 2003 ; he reactivated his license February 27, 2003. He further explained the he had spent \$23,000 in attorney fees to be excused in the lawsuit where his client sued Amazon regarding an online auction. Mr. Moecker moved to approve the application, it was seconded by Ms. Hill, and the motion passed unanimously.

### **Ratification Lists presented by Donna Salters Thomas**

There were six (6) auctioneer examination applications presented to the board for consideration. The application list was presented and a motion to approve the applications was made by Mr. Moecker and seconded by Ms. Hill. The motion passed unanimously.

There were fourteen (14) auctioneer endorsement applications presented to the board for consideration. The application list was presented and the motion to approve was made by Mr. Moecker and seconded by Mr. Accardo.

Mr. Dietrich asked staff in the future to list the states which endorsement applicants are licensed.

There was one (1) application for licensure from null & void status presented to the board for consideration. The motion to approve was made by Mr. Moecker and seconded by Ms. Elms. The motion passed unanimously.

There were thirty (30) Auction Business applications presented to the board for consideration. Ms. Hill moved to approve the applications; Mr. Moecker seconded the motion and the motion passed unanimously.

### **Board Counsel Report**

Ms. Glover addressed the board indicating that she has been transferred to another board and she will no longer be serving as counsel for the Board of Auctioneers and introduced Ms. Mary Ellen Clark as the new board counsel

### **Board Chair Report**

Mr. Dietrich reported on the NALLOA conference held in San Antonio, Texas. He indicated that other states commented on Florida's new policy of allowing staff to assign licenses by reciprocity. He informed the board that Brad Wooley was elected to the National Auctioneers Association Board of Directors and Barbara Malett was also elected to the NAA. He added that this is significant in that NALLOA members seem to have been underrepresented at the national level.

The next NALLOA meeting will be in January on a cruise ship leaving Port Canaveral. Ms. Malone reminded the Board that this has to be approved per budget. Mr. Dietrich recommended that staff and a board member attend. A motion was offered on Mr. Moecker and seconded by Ms. Elms. The recommendation passed unanimously.

### **Mediation Report**

Ron Safford , Alternative Dispute Coordinator, Division of Professions & Regulations explained the implementation of mediation which was instituted in 1999. He explained mediation is a very effective, measurable, cost saving option to investigation and legal pursuits on complaints. Mr. Safford indicated that in reviewing rules for auctioneers, the violation, that are recommended as being eligible for mediation do not fit with what the statutory regulations ask. The criteria for a mediation violation is that it must be legally sufficient, must have some financial or economical harm, or can be remedied by the licensee. It should not involve anything that is a minor violation or can be resolved by a citation. The only board rule that eligible for mediation is failure to display a business or individual license. He asked for permission to work with the board and determine what they may be able to mediate excluding criminal activity. He further indicated that the average case cost for an investigation is \$1200; the average cost of mediating is \$211. The board expressed interest in the mediation concept. Mr. Moecker offered a motion to expand and streamline mediation for

the Board of Auctioneers. Ms. Hill seconded the motion and the motion passed unanimously.

The board suggested that Mr. Safford meet with counsel, and report back to the Board in the future.

### **Division of Regulation Report**

Ms. Malone presented the regulation report on complaints, investigations, mediations, and non-compliance for year to date and fiscal year 2002-2003. Mr. Wilson, Deputy Director of Professions & Regulation addressed the board and reported that \$16,333 indicated on the report has been recovered through mediation.

Mr. Dietrich moved to accept the unlicensed activity report. It was seconded by Ms. Hill and passed unanimously.

### **Executive Director's Report**

Margate regional office conducted an auctioneer sweep. They checked 34 auctioneer licenses and visited two auction business sites. Thanks to Jim Patton and Cheryl Biesky three (3) notices of non-compliance were issued. Mr. Dietrich moved to have Ms. Malone send them a letter of appreciation. Ms. Hill seconded the motion. The motion passed unanimously.

Mr. Pellegrini addressed the Board concerning written reports relating to prosecution activity. There are currently no unlicensed activity investigations and there are two (2) cases awaiting probable cause determination. There are currently eleven (11) cases and five (5) of which have requested informal hearings and would be coming before the board at a later meeting.

Ms. Glover explained to the Board that they must report to Ms. Malone if they learn of information regarding an applicant or licensee to begin the investigation process. She informed the board that they should not discuss prior knowledge of what they may have heard regarding a licensee or applicant. They must refer all questions to the attorney, and forward complaints to Ms. Malone. Ms. Glover suggested never bringing any kind of hearsay information into the board meeting regarding an application and that throwing out names could cause a board member to not be able to vote on that application.

Ms. Malone updated the board on computer based testing. She reported that the administrative law judge has made a decision to move forward with computer based testing. The target date to begin CBT testing is October 13th or shortly thereafter. Paper exams will be administered through October 10<sup>th</sup>. Those persons affected would need to view the Department's website for updated information.

Ms. Malone referred the board to Section 455.229, F.S., regarding the disposal of confidential information. She reminded the board that there is sensitive information included in the agendas. She asked board to properly dispose of board meeting materials.

Ms. Malone informed the board that they do not have a rule that addressed members of the armed forces in good standing with the board. Ms. Malone referred to the statutory authority under section 455.02, F. S. for making such a rule. She asked board counsel to draft a rule pertaining to renewals for spouses and members who are active in the armed forces. There were no objections and it was passed by general consent.

Ms. Malone presented the question for clarification of what constitutes livestock. Mr. Dietrich noted that Steven Monroe at the Department of Agriculture had been contacted to assist in the official definition of livestock. Ms. Malone will contact Mr. Monroe about this issue.

### **Legislative Committee Report**

Ms. Malone indicated that the rule draft included in the agenda was prepared by Mr. Pellegrini regarding licensing requirement as there are no real qualifications for licensing auction businesses. Ms. Clark was asked to review the draft. Ms. Malone informed the board that the submission deadline had past for the 2004 legislative session. It was suggested that the board wait until the 2005 legislative session.

Mr. Dietrich informed the board that he and Mr. Moecker would be attending the Board Member training in Tallahassee on October 1, 2003.

Mr. Pelligrini recommended that the board set a date for reviewing the disciplinary cases that was originally scheduled to be part of this board meeting.

The next board meeting will be conducted on November 12, 2003, at 10:00 a.m. by a telephone conference call to handle the discipline cases that were scheduled.

The next in person board meeting is scheduled in conjunction with the Florida Auctioneers Association meeting in Orlando, on December 5<sup>th</sup>, 2003 at 10:00 a.m.

Mr. Moecker requested permission to be excused from December 5, 2003, meeting since he will be out of the country. Mr. Dietrich offered a motion to excuse Mr. Moecker. The motion was seconded by Mr. Accardo and passed unanimously

Ms. Hill moved to adjourn the meeting, Mr. Moecker seconded and the motion passed unanimously.

The meeting was adjourned at 11:47 a.m.