

MINUTES
Florida Board of Auctioneers Meeting
Ramada Plaza & Inn Gateway
7470 Highway 192 West
Kissimmee, Florida 34747
December 5, 2003, 10:00 a.m.

CALL TO ORDER

Chairman Fred Dietrich called the meeting to order at 10:20 a.m. and a quorum was established.

ROLL CALL:

The following members were present:

Fred Dietrich
Annette Elms
Craig Accardo

Absent

Mr. Michael Moecker was excused from this meeting.
Ms. Jodi Hill was excused from this meeting

Staff Present

Julie Malone, Executive Director
Donna-Salters-Thomas, DBPR, Government Analyst I
Charlie Pelligreni, Prosecuting Attorney
Mary Ellen Clark, Assistant Attorney General

Others Present

Victor Rivera, Applicant

APPROVAL OF MINUTES

Fred Dietrich noted that Scott Roberts was not recorded on the list of those in attendance at the November 12, 2003 meeting. A motion was made by Mr. Accardo to approve the minutes with this correction. Ms. Elms seconded it and the motion passed unanimously.

APPLICATIONS

Discipline

The motion to deny petition for Donnie Clay Connolly case was pulled from the agenda.

Applications with Criminal History

Application # 2806 auctioneer from null and void, Hossein Karibaik was presented by Ms. Malone. It was noted that his application indicated that he did not attend an auctioneer school and that he did not hold an apprentice license. Ms. Clark indicated that he would need to meet all of the requirements of 468.385, F.S. for initial license.

Ms. Clark referred to Florida Statutes 468.385 (6) which indicates that an applicant must have held an apprentice license and served as apprentice for a year or more or completed a course of study not less than 80 classroom hours. Mr. Dietrich moved to deny this application for lack of meeting requirements for initial licensure as required by 468.385 (6), F.S. The motion was seconded by Mr. Accardo and passed unanimously.

Ms. Malone presented application # 1561 Bonifant Auction Company. It was noted that the applicant Mr. Karibaik had discipline in North Carolina and there was no information enclosed in his application concerning the disciplinary action in his case. His application was denied based on the discipline of an officer, specifically the president of a corporation. Mr. Accardo seconded the motion and the motion passed unanimously.

Applicant Victor Rivera was present at the meeting. Ms. Clark swore him in. Mr. Rivera informed the Board that he is in the process of having his civil rights restored. Ms. Clark indicated that Chapter 112 Florida Administrative Code anyone who does not have his civil rights restored is not eligible to hold a license.

Mr. Rivera addressed the Board referencing 468.389, F.S. concerning prohibited acts and penalties and expressed concerns regarding its clarity. Ms. Clark again explained that Chapter 112 of Florida Administrative Code was applicable to all applicants for license whose civil rights were not restored.

Mr. Rivera withdrew his application and requested a refund.

Ratification of Applications

There were two (2) applications presented for ratification for license by exam Ms. Elms moved to accept exam applications. Mr. Accardo seconded it and the motion passed unanimously.

There were four (4) applications presented for ratification for license by endorsements. Mr. Accardo moved to accept the applications. Ms. Elms seconded it and the motion passed unanimously.

There was one (1) application by null & void presented for ratification. Mr. Dietrich moved to accept this application. Ms. Elms seconded it and the motion passed unanimously.

There was one (1) application presented for ratification for apprentice application. Mr. Accardo moved to accept the applications. Ms. Elms seconded it. The motion passed unanimously.

There was six (6) applications presented for ratification for license for auction businesses. Mr. Accardo moved to accept the application. Ms. Elms seconded it. The motion passed unanimously.

Executive Director's Report

Ms. Malone reported on the new contract with the testing vendor Promissor. The contract shows that the hourly charge in the testing contract has been reduced from \$13 to \$9 per hour.

The exam fee Rule 61G2-3.003 (1) (2) exam and re-exam fees are currently \$237.00 and is payable to the department plus \$13.00 payable to the testing service. This needs to change to \$9.00 payable to the testing service. The Board decided to increase the application fee by the decrease payable to the vendor, since this was not an overall increase to the applicant.

The motion was made by Mr. Accardo to increase to the department a fee of \$241.00 and exam fee of \$9.00. The motion was seconded by Ms. Elms and it passed unanimously.

Ms. Malone reported on the financial statements quarter ending September 30th, 2003 comparing it to September 30, 2002. Mr. Dietrich asked whether someone that is getting a current initial

license is paying into the Recovery Fund? Ms. Malone answered, no in light of current fund balance, referencing 468.393 (2)(3), F.S. limitations on surcharge fees to applicants.

Ms. Clark provided a report concerning criminal history checks on applicants for auctioneer license. She stated that Chapter 468.385 (7) (b), F.S. does allow the Board to request whatever information they deem necessary for an application. However, the Board must work with the department to get this information included in the application package. Ms. Malone indicated that the department has provided approval on this matter. Ms. Malone informed the Board that there is a \$47 finger print card application fee that must be added. The finger print card requirement will be for all applications (auctioneer, auctioneer apprentice, principle on auction business.)

Mr. Accardo motioned that Ms. Malone proceed with adding the finger print card requirements to the auctioneer application. Ms. Elms seconded the motion and it passed unanimously.

Ms. Clark asked that the Board to review Rule 61G2-3.002 application fees. Ms. Malone requested that Ms. Clark include the \$47 finger print fee card fee into the rule change. Mr. Accardo made a motion to choose the language, notice it for rule development and delegated the responsibility to Ms. Clark. The motion was seconded by Ms. Elms and passed unanimously.

Ms. Clark provided a report on rules that were previously in process. The rules are exemptions for license renewal provision 61G2-2.0035 (provision for licensees in the arm services) was noticed for rule development on November 26, 2003. The initial period for anyone to make their objections known will have expired by the Boards next schedule meeting in March and the Rule will be ready for the final vote.

Mr. Dietrich requested that Ms. Malone send a letter of appreciation to Ms. Clark's supervisor for her exemplary service to the Board.

Prosecuting Attorney's Report

Mr. Pellegrini provided the Prosecuting Attorney's Report. He informed the Board that Mr. Joseph Shaia (case # 200201431 and case # 200201549) had settled all accounts and has come into full compliance of agreement in his final orders.

Ms. Elms asked a question of how does the department handle cases regarding the commission of a violation by an applicant before the license is issued. Ms. Clark indicated that there is possible jurisdiction to prosecute for unlicensed activity.

Ms. Elms further asked when should a complaint be filed? Mr. Dietrich suggested that to prevent the discussion of a Board member having witnessed or having prior knowledge of an applicant or licensee committing a violation, and the person's case is not currently before the board, please speak privately to the Board attorney.

Ms. Malone provided a review of the Bureau of Education and Testing Task List Survey. This survey was done to replenish information on the exam. She reported that a past board member was surveyed along with 26 others. Mr. Dietrich commented that the answer sheet did not match the survey question numbers. However, in spite of the error, the results seemed to be fairly accurate.

New Business

Mr. Dietrich motioned that Ms. Clark send to Jim Skeen of Florida Auction Academy a letter informing him of Florida Statute concerning convicted felons applying for licenses. The motion was seconded by Ms. Elms and passed unanimously.

Ms. Malone asked how many NALLOA meetings would the board want to attend in fiscal year beginning July 1, 2004. Mr. Dietrich suggested that she ask for approval to attend both that are held within the fiscal year, but most importantly the chairman and a staff member would attend the June 2004 meeting. This request was voted on at last meeting.

Ms. Malone informed the Board to please send all travel reimbursement to DBPR staff, Donna Salters Thomas or Dana Ewaldt in a timely manner.

Mr. Accardo suggested that the Board hold the in person meetings where there can be more public participation. It was noted that the effort was attempted by scheduling this meeting in conjunction with Florida Auctioneers Association.

Next Meeting

The next meeting is scheduled for **March 9, 2004, 10:00 a.m.** by telephone conference. Mr. Dietrich indicated that the budget for the remaining part of this fiscal year is already set and that Ms. Malone will include in the next fiscal year's (July 1, 2004) budget two in person meetings and two-telephone conference call meetings.

The motion to adjourn was made by Ms. Elms and seconded by Mr. Accardo. The meeting was adjourned at 12:14 p.m.