

MINUTES
Florida Board of Auctioneers
Telephone Conference Call

Meeting Type: General Business Meeting

Meeting Date: Wednesday, June 16, 2004, 10:00 a.m.

Location: Telephone Conference Call

Members Present: Fred Dietrich – Chair, Michael Moecker - Vice Chair; Craig Accardo, JoAnn Hill

Members Absent: Annette Elms – excused absence

Staff Present: Julie Malone, Executive Director
Donna Salters Thomas, Government Analyst
Robyn Barineau, Government Analyst
Brian Higgins, Prosecuting Attorney
Mary Ellen Clark, Assistant Attorney General
Mark Whitten, Division Director
Mark Reddinger, Unlicensed Activity Program

Others Present: William Rowley, Applicant

The meeting was called to order by Mr. Dietrich, Chair at 10:05 a.m. and a quorum was established.

Ms. Hill offered the motion to approve the minutes of the April 5, 2004 meeting. Mr. Accardo seconded it and the motion passed unanimously.

Consideration of Application with Criminal History

The board reviewed Mr. William Allen Rowley application #139 for auctioneer apprentice. Mr. Rowley addressed the board concerning his criminal history stating that these offenses were first time offenses and the only occurrence on his criminal record. Mr. Moecker offered a motion to accept the application. Ms. Hill seconded it and the motion passed unanimously.

The board reviewed James Giannuzzi application # 3116 for auctioneer from null & void. Mr. Giannuzzi was not on the conference call. A motion to deny Mr. Giannuzzi application was offered by Mr. Dietrich. Ms. Clark stated that the Board needed to provide the reason for the denial. It was stated that although Mr. Giannuzzi has several arrests on his criminal history record, he was convicted only for aggravated battery and assault as disclosed on the application. The motion to deny the application was withdrawn. Mr. Accardo presented a motion that Mr. Giannuzzi be required to appear at the September 2004 board meeting to review his application. Mr. Moecker seconded it and the motion passed unanimously.

Page 2

Ratification List

There were nine (9) applications presented for auctioneer by endorsement. Mr. Moecker offered the motion to accept the applications. Ms. Hill seconded it and the motion passed unanimously.

There were two (2) applications presented for license from null & void. Mr. Moecker offered the motion to accept the applications. Mr. Accardo seconded the motion and it passed unanimously.

There were thirty (30) applications presented for auctioneer license by examination. Ms. Hill offered the motion to accept the applications. The motion was seconded by Mr. Moecker and passed unanimously.

There were five (5) applications presented for auctioneer apprentice license. Mr. Accardo offered the motion to accept the applications. The motion was seconded by Mr. Moecker and passed unanimously.

There were thirty (30) auction business applications presented. Mr. Moecker offered the motion to accept the applications. Mr. Accardo seconded the motion and the motion passed unanimously.

Chairman Report

Mr. Dietrich reported that he had contacted a member of the Florida Legislature concerning the need for auctioneers having a licensing board and that it was his personal feelings that state government should be the governing authority and not a private agency.

He also stated that he would be attending the NALLOA Conference in July in Madison, Wisconsin. It was noted that due to schedule conflicts, no staff would be able to attend. Ms. Malone explained that the department would be paying according to what was in the past, which is a one night stay, travel, and the registration fee.

Board Counsel Report

Ms. Clark reported on the following language changes to

Section 468.385, F.S. Licenses required; qualifications; examination; bond:

--- (4) Any person seeking a license as an auctioneer must pass a written examination approved by the board which tests his or her general knowledge of the laws of this state relating to provisions of the Uniform Commercial Code that are relevant to auctions, the laws of agency, and the provisions of this act. Each applicant must file a complete set of fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

Ms. Clark stated that the language change requires legislative approval. Ms. Malone suggested that the board take this language to their associations, because she is not sure if it will be part of the 2006 department legislative package. Mr. Dietrich suggested the board recommend this language be added to the department's 2006 legislative

Page 3

package. Mr. Accardo offered the motion to add this language. Mr. Moecker seconded it and the motion passed unanimously.

Mr. Accardo asked Ms. Malone if there is a legislator that the board may speak with to emphasize the need of this language becoming part of the license requirement. Ms. Malone again suggested that the board seek support from their association. Mr. Dietrich suggested that board members contact their individual legislators regarding the need to complete a criminal history check on applicants for auctioneer and auction business licenses.

Mr. Dietrich thanked Ms. Clark for her outstanding work stating that she is a great asset to the team.

Ms. Clark reported that Rule 61G2-2.0035, F.A.C. Exemptions from Licensure Renewal Provision (for members of military spouses) became affective on March 24, 2004; Rule 61G2-3.002, F.A.C. finger print application fee was withdrawn on March 15, 2004; and Rule 61G2-3.003 F.A.C, Examination Fee changes became effective April 26, 2006.

Executive Director Report

Ms. Malone provided a report on the operating account. Ms. Hill asked questions regarding the legislators authority in sweeping the account. She also asked was the net asset amount in addition to the Recovery Fund? Ms. Malone explained that the Auctioneer Recovery Fund is a separate account and was not part of the \$495,801 cash sweep. She explained that the Recovery Fund is protected by Statute. Ms. Hill stated that this is a significant amount to have accumulated in the account, therefore are the license fees too high? Ms. Malone responded that the board has been able to operate in the positive and the auctioneer board had a fee holiday. Ms. Hill expressed concerns in that the board is not a for-profit organization and that the purpose is not to build a large "slush" fund just to have it available to be swept by the legislature. If the money is not for the recovery fund then what in fact does the board need money for beyond the necessary expenses. She commented that she would like to build the account back up to \$500,000.

Mr. Dietrich stated that he approached his legislator regarding the cash sweep. He was told that the state needed the money to pay for amendments where there was no budget. Ms. Hill further shared her concerns in that there is something wrong with building up such a huge pot of money just for it to be swept --it seems like a tax. Ms. Malone stated that the board should keep in mind that they do not have the closeout statement for the fiscal year 2003-2004. Ms. Malone stated that when she receives an approved version of the fiscal year 2003-2004 financial closeout report, she would forward a copy to board members. Ms. Malone further stated that the department is requesting permission from the board to transfer funds from the unlicensed activity account to the general operating account. Mr. Dietrich stated that only if the board goes into the red would they consider transferring funds, but he does not foresee it happening. Ms. Hill stated that if the board were in the red, then she would require an explanation from the department before making her decision. The board postponed providing a response to this until that actually occurs.

Page 4

Mr. Dietrich expressed concerns regarding the money in the auctioneer account that is available for cash sweeps, yet there is no money for face-to-face meetings and limited travel money allowed for events like the NALLOA conference.

Mr. Accardo suggested that the board try to be as efficient as possible in accumulating and spending funds and he suggested that rather than have so much money available for cash sweeps, give a fee holiday for licensing. Additionally, he stated that holding face-to-face meetings in conjunction with Florida Auctioneer Association (FAA) conferences might be more efficient.

It was noted that when there are face-to-face meetings, an applicant with criminal history would need to appear in person as well. Mr. Dietrich stated that the FAA has two meetings per year and there are two advantages to tying into their meetings. First there is the opportunity to negotiate for better meeting room rates, and secondly it will be an opportunity to meet among the association members. The board stated that they would like to have in person meetings in September 2004, December 2004, and June 2005.

After review of the financial reports, Mr. Accardo commended the department for the increased spending on investigations. Mr. Dietrich also noted the increase in the collection of fines.

Ms. Malone reported that the discipline case of A & E Auctions had not been paid was forwarded over to the department collection attorney.

Mr. Dietrich commended Ms. Malone & Mrs. Salters-Thomas on their work at the Board office.

Mr. Reddinger from the Unlicensed Activity Program addressed the Board concerning public service announcements (PSA). He stated that there was an addition of six (6) investigators to handle unlicensed activity department wide. He indicated that there are several department wide announcements currently running on radio and television and that there are some specific to a profession. Mr. Dietrich asked if the regulation department would do more spot-checking at automobile auctions and in newspaper advertisements. He said that one concern is that many ads will be listed in Saturday's newspaper with no license number announcing a Sunday auction when investigators are normally not working. Mr. Whitten, Division Director stated that one of the requirements of the new investigators would be to work on some weekends.

Ms. Hill expressed concerns regarding on-line auctions. Mr. Dietrich explained that if a person is placing their personal property on electronic auction sites, then there is no requirement for license. She further expressed concerns regarding the need to have PSAs that address on-line auctions as well as many people don't know that persons who live in Florida or have a business in Florida that sell consignment items on the Internet must have a license.

Mr. Reddinger informed the Board that they could call him at anytime concerning unlicensed activity. He also informed the board that he would appreciate input concerning the best type of PSA for their profession.

Page 5

Ms. Hill offered the motion to have Ms. Malone and Mr. Reddinger research the cost of different types of PSA's and present them at the September 2004 meeting. The motion was seconded by Mr. Accardo and passed unanimously.

Complaints & Investigative Reports

From July 2003 to April 2004, there were 113 complaints; 80 complaints were found legally sufficient, and 14 were of unlicensed activity. Additionally, there were 74 investigations assigned, and 44 investigations completed. There were 30 mediations assigned 28 mediations completed and 3 notices of non-compliance.

Old Business

In regards to attending the NALLOA conference, Mr. Moecker asked what was the amount paid last year for the chair to attend? Ms. Malone responded that last year the board paid for travel, one night room and the registration fee. Ms. Hill recommended that two people attend the conference. Ms. Malone stated that in the past, the board would need to stipulate exactly who will be going. Mr. Moecker offered the motion that Mr. Dietrich & Ms. Elms attend the NALLOA conference. Mr. Accardo seconded it and the motion passed unanimously. Ms. Malone stated that she would follow up with Ms. Elms regarding her attending the conference.

Mr. Moecker asked for an update on the auction business application process. Mr. Dietrich explained the concern of it being easier to obtain an auction business license (which requires more fiduciary responsibility) than it is to obtain the auctioneer license due to the criminal history disclosure on the AU application. A discussion ensued on a qualifier or an auction principle for an auction business. It was later suggested that this issue be discussed with members from the FAA. Ms. Malone and Ms. Clark will review North Carolina statutes concerning auction business license and discuss it at the September meeting.

New Business

The next meeting will be held Wednesday, September 29, 2004 in Tallahassee, Florida at 9:00 a.m.

Mr. Moecker motioned that the meeting be adjourned. It was seconded by Ms. Hill and passed the motion passed unanimously. The meeting was adjourned at 12:00 p.m.

Submitted by

Donna Salters Thomas
Government Analyst