

**MEETING OF
THE FLORIDA BOARD OF AUCTIONEERS**
The Casa Monica Hotel
95 Cordova Street
St Augustine, Florida 32084
Wednesday, December 12, 2007 @ 9:00AM est.

CALL TO ORDER

Mr. Moecker, Chair, called the meeting to order at 9:00a.m. Mr. Moecker asked everyone to stand and recite the pledge of allegiance and Mr. Shearer gave the invocation. There was a roll call and a quorum was established.

BOARD MEMBERS PRESENT

Michael Moecker, Chair
Craig Accardo
H. Fred Dietrich, III
Donald "Don" Shearer

STAFF PRESENT

Anthony Spivey, Executive Director
Renese Jones, Government Analyst
Jessica Leigh, Prosecuting Attorney
Barbara Edwards, Assistant Attorney General

OTHERS PRESENT

Jena Baker, Great Expectations Auction Co.
Gayle Dietrich, Spouse

APPROVAL OF MINUTES FROM SEPTEMBER 19, 2007

The minutes were approved with no noted corrections.

Motion: Mr. Shearer moved to approve the minutes.
Second: Mr. Accardo seconded the motion and it passed unanimously.

PUBLIC COMMENTS

No comments

APPLICATIONS

Mr. Spivey presented the application list for ratification as follows:

AUCTIONEER BY EXAMINATION

MITCHELL, TRAVIS W	AU 3730
ROOKS, DOUGLAS W	AU 3731
TAMIR, SAMMY	AU 3732
JONES, MARIBETH A	AU 3733
SHADDUCK, CHARLES	AU 3734

SWAILES, GARY S	AU 3735
CONVERSE, ROBERT E	AU 3736
WATTS, JAY K	AU 3737
COMMINS, WILLIAM M	AU 3738
DRAYTON, CHRIS S	AU 3739
ROMETT, DILARA	AU 3740
WILSON, JAMES A	AU 3741
MOCKE, PETER	AU 3742
MAYNARD, RONALD V	AU 3743
PERERA, ARMANDO	AU 3744
FARNSWORTH, JAMES M	AU 3745
UNTCH, MARTIN A	AU 3746
PETERSON, STEVEN S	AU 3747
HART, RICHARD	AU 3750
KIMBALL, JEFF S	AU 3751
LAMPMAN, FREDERICK M	AU 3752
AYERS, KATHLEEN A	AU 3753

AUCTIONEER BY ENDORSEMENT

WILLIAMS, JOHN C	AL	AU 3748
JONES, JENNIFER D	MS LA	AU 3749

AUCTION BUSINESS

BARN FURNITURE GALLERY	AB 2668
DADE CITY AUCTION HOUSE INC	AB 2669
KING AUCTION INC	AB 2670
ALEXANDER CHRISTIE AUCTIONS LLC	AB 2671
ART WORLD AUCTIONS	AB 2672
LUCKY BIDDER AUCTION	AB 2673
SALVAGE 1ST	AB 2674
95 AUCTION INC	AB 2675
ST.PETERSBURG AUCTIONS	AB 2676
ASSET REAL ESTATE SOLUTIONS INC	AB 2677
CENTURY MAX REALTY INC	AB 2678
AES AUCTION CO & ESTATE LIQUIDATIONS LLC	AB 2679
MY AUCTION HOUSE	AB 2680
DOROTHEUMS	AB 2681
VOCON AUCTIONS LLC	AB 2682
TRAVIS MITCHELL AUCTIONS	AB 2683
EXPORT MIAMI INC	AB 2685
HALL AUCTION SERVICES LLC	AB 2687
BARLOW AUCTIONS INC	AB 2688
CENTRAL FLORIDA AUCTIONS	AB 2689
B & B ENTERPRISES	AB 2690
FARNSWORTH AUCTION & ESTATE SVC	AB 2691

BEST BUY AUTO OF TAMPA	AB 2692
CROWDER'S AUCTION SVC INC	AB 2693
AWE AUCTIONS & APPRAISALS, LLC	AB 2694
ONSITE AUCTION LIQUIDATORS	AB 2695
FITZGERALD AUCTIONS	AB 2697

AUCTIONEER APPRENTICE

BARTVS, WILLIAMS III	AE 380
COLLINS, RICHARD R	AE 381
THORTON, LORI K	AE 382
STRAUSS, ROBERT	AE 383
HAMBURG, DOLORES FR	AE 384

Motion: Mr. Shearer moved to approve the application list as presented.
 Second: Mr. Accardo seconded the motion and it passed unanimously.

CASE LOAD STATUS

Ms. Leigh's report dated November 27, 2007 reflected five cases in legal, one case set for expert review, five cases set for administrative complaint, one case was set for default, one case was set for settlement negotiations and six cases set for board review. There were a total of thirteen cases in legal.

PROSECUTING ATTORNEY REPORT

#2006-069842, Alan David Loeser

The respondent was not present and was not sworn in via the court reporter. Mr. Loeser's attorney faxed a letter on his behalf requesting his client be granted a continuance until the next meeting.

Motion: Mr. Dietrich moved to deny Mr. Loeser's attorney request for a continuance until the next meeting based on legal problems in several other states and the well being of others in the state of Florida.
 Second: Mr. Moecker seconded the motion and it passed unanimously.

Ms. Leigh presented case #2006-069842, Alan David Loeser, AU2711. The department filed an administrative complaint against the respondent on July 24, 2007. The administrative complaint charged the respondent with violating Section 468.389, (1) (k) F.S., having a license to practice a comparable profession revoked, suspended, or otherwise acted against by another state, territory, or country. The respondent responded to the election of rights form and decided not to dispute the charges.

Ms. Leigh stated that *"the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Accardo moved to approve the findings of facts and conclusions of law.

Second: Mr. Moecker seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Alan David Loeser pay a fine of \$1000, costs in the amount of \$139.99 and revoke his license.”*

Motion: Mr. Moecker moved to approve the board recommendation.

Second: Mr. Accardo seconded the motion and it passed unanimously.

#2007-012768, Joseph Shaia

Ms. Leigh presented case #2007-012768, AU717. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on August 7, 2007. The administrative complaint charged that the respondent with violating Chapter 468.389 (1)(d) F.S., false, deceptive, misleading, or untruthful advertising shall be grounds for the disciplinary activities provided in subsections (2) and (3); Section 468.388 (11)(a) F.S, all advertising by an auctioneer or auction business shall include the name and Florida license number of such auctioneer and auction business. The term "advertising" shall not include articles of clothing, directional signs, or other promotional novelty items; Section 468.389 (1)(j) F.S. Violating a statute or administrative rule regulating practice under this part or a lawful disciplinary order of the board or the department; and Section 468.385 (7)(b) F.S., no business shall auction or offer to auction any property in this state unless it is licensed as an auction business by the board or is exempt from licensure under this act. Each application for licensure shall include the names of the owner and the business, the business mailing address and location, and any other information which the board may require. The owner of an auction business shall report to the board within 30 days of any change in this required information. The respondent has requested through his election of rights form to have an informal hearing not disputing issues and material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C.

Ms. Leigh stated that *“the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines.”*

Motion: Mr. Shearer moved to approve the findings of facts and conclusions of law.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Joseph Shaia, case #2007-012768, AU717, pay a fine in the amount of \$2000, costs of \$146.31 and revoke his license.”*

Motion: Mr. Dietrich made a motion for Joseph Shaia to pay a \$2000 fine, \$146.31 costs and revoke his license.

Second: Mr. Shearer seconded the motion and it passed unanimously.

#2005-058399, Joseph Burr Fine, Jr.

Ms. Leigh presented case # 2005-058399, AU1760. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on March 7, 2007. The respondent has been charged with violating Section 468.389 (1)(c), F.S.; failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction shall be grounds for the disciplinary activities provided in sub-section (2) and (3); and Section 468.389 (1)(e), any conduct in connection with a sales transaction which demonstrates bad faith or dishonesty. The respondent failed to file an election of rights form or otherwise establish the disputing issues and material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent has waived his right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived his right to a hearing.

Motion: Mr. Moecker moved to approve that the respondent waived his right to a hearing.

Second: Mr. Shearer seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines.”*

Motion: Mr. Moecker moved to approve the findings of facts and conclusions of law.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Joseph Burr Fine, Jr., case 2005-058399, A 1760, pay a fine in the amount of \$2000, costs of \$440.91 and revoke his license.”*

Motion: Mr. Moecker made a motion to revoke Joseph Burr Fine, Jr. license based on 468. ____ (2) (b, h and p), pay a fine of \$2000 and costs \$440.91.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

#2005-058401, Fine Estate Liquidators, Inc.

Ms. Leigh presented case #2005-058401, AB1380. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on March 7, 2007. The respondent has been charged with violating Section 468.389 (1)(c), F.S.; failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another

which has come into the control of an auctioneer or auction business through an auction shall be grounds for the disciplinary activities provided in sub-section (2) and (3); and Section 468.389 (1)(e), any conduct in connection with a sales transaction which demonstrates bad faith or dishonesty. The respondent failed to file an election of rights form or otherwise establish the disputing issues and material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent has waived his right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived his right to a hearing.

Motion: Mr. Accardo moved to approve that the respondent waived his right to a hearing.

Second: Mr. Shearer seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines.”*

Motion: Mr. Shearer moved to approve the findings of facts and conclusions of law.

Second: Mr. Accardo seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Fine’s Estates Liquidators, Inc., case #2005-058401, AB1380, pay a fine in the amount of \$2,000, costs of \$645.58 and revoke company license.”*

Motion: Mr. Accardo made a motion for Fine’s Estates Liquidators, Inc. to pay a \$2000 fine, \$645.58 costs and revoke the company license.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

#2007-001652, Michael Cobosco

Ms. Leigh presented case # 2007-001652, AU2100. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on August 1, 2007. The respondent has been charged with violating Section 468.389 (1)(c), F.S., failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction shall be grounds for the disciplinary activities provided in sub-section (2) and (3). The respondent failed to file an election of rights form or otherwise establish the disputing issues and material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent has waived his right to request a hearing where there is a disputed issue of

material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived his right to a hearing.

Motion: Mr. Accardo moved to approve that the respondent waived his rights to a hearing.

Second: Mr. Shearer seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines.”*

Motion: Mr. Accardo moved to approve the findings of facts and conclusions of law.

Second: Mr. Shearer seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Michael Cobosco, case #2007-001652, AU2100, pay a fine in the amount of \$1000 and costs of \$228.33.*

Motion: Mr. Shearer made a motion to revoke Michael Andres Cobosco license based on Section 468. ____ (2)(b-e, h, j), pay a fine in the amount \$1000 and costs \$228.33.

Second: Mr. Accardo seconded the motion and it passed unanimously.

#2007-001653, Boca Auction Gallery

Ms. Leigh presented case # 2007-001653, AB1603. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on August 30, 2007. The respondent has been charged with violating Section 468.389 (1)(c), F.S., failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction. The respondent failed to file an election of rights form or otherwise establish the disputing issues and material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent has waived his right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived his right to a hearing.

Motion: Mr. Shearer moved to approve that the respondent waived his rights to a hearing.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department believed that it is appropriate for the Chair to entertain a motion adopting the allegations and facts and conclusion of law contained in the*

administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines.”

Motion: Mr. Shearer moved to approve the findings of facts and conclusions of law.

Second: Mr. Accardo seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department’s recommendation in this case is that Boca Auction Gallery, case #2007-001653, AB1603, pay a fine in the amount of \$1000, costs of \$191.69 and revoke the company license.*

Motion: Mr. Shearer made a motion for Boca Auction Gallery license based on Section 468. ____ (2)(b-e, h, j, l), pay a fine in the amount \$1000, cost \$191.69 and revoke company license.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

BOARD ATTORNEY

Ms. Edwards submitted the final draft of the null and void fee rule to the board for approval. See below.

61G2-3.001 Fees.

(1)-(11) No Change

(12) Fees for Reinstatement of a Void License:

(a) Non refundable Application fee of \$150.00.

(b) Non Refundable Renewal fee of \$150.00 - \$300.00 for each biennium when timely renewal was missed, as set forth in Rule 61G2-2.006, and

(c) Fee for unlicensed activity and recovery fund of \$105.00 - \$210.00 for each biennium when timely renewal was missed, as set forth in Rule 61G2-2.006.

Specific Authority: ***add 455.271(6)(b), (9)***

Law Implemented: ***add 455.271(6)(b), (9)***

History: new _____, Amended _____.

Motion: Mr. Shearer made a motion to give Ms. Edwards permission to move forward with the fee rule.

Second: Mr. Accardo seconded the motion and it passed unanimously.

BOARD CHAIR REPORT

Mr. Moecker praised staff for an outstanding job and wishes everyone a Merry Christmas.

EXECUTIVE DIRECTOR’S REPORT (Operating, Recovery, Unlicensed)

Mr. Spivey reviewed the financial reports ending June 30, 2007. He indicated that the *“operation account shows a balance of \$68,499. The operating account for the recovery fund shows a balance of \$816,278. In the unlicensed activity account there’s a balance of \$27,518.”*

Ms. Cheri Melchione

Ms. Cheri Melchione recovery claim against A&E Auctions, AB1122, Case #2002-000601 was approved. The board granted her \$50,000 to be released via the Department by January 15, 2008.

Motion: Mr. Accardo made a motion to pay Ms. Cheri Melchione \$50,000 from the recovery funds by January 15, 2008.

Second: Mr. Shearer seconded the motion and it passed unanimously.

State of Michigan

Mr. Spivey presented a letter from the State of Michigan showing interest in a reciprocity agreement with the state of Florida. The State of Michigan is willing to compile the material and provide them to the state of Florida for their investigation.

Motion: Mr. Shearer made a motion for the Department to work with the State of Michigan on the reciprocity agreement.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

The Board was provided a list of the present reciprocal states in the state of Florida.

The regulation report was provided to the board for information proposes only.

Mr. Spivey wished everyone a happy holiday and he enjoyed working with the members of the Auctioneer board.

NEW BUSINESS

Proposed Meeting Dates for 2007 – 2008

March 12, 2008 – Tallahassee, Orlando or Tampa

June 12, 2008

ADJOURNMENT

Motion: Mr. Accardo moved to adjourn.

Second: Mr. Shearer seconded the motion and it passed unanimously.

The meeting was adjourned at 11:15pm.