

**MEETING OF  
THE FLORIDA BOARD OF AUCTIONEERS**  
The Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida  
**Wednesday, March 12, 2008 @ 9:00AM est.**

**CALL TO ORDER**

Mr. Moecker, Chair, called the meeting to order at 9:01a.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  
Tammy Moore, Administrative Assistant to Ms. Leigh  
Barbara Edwards, Assistant Attorney General  
Michael Green, Unlicensed Activity Coordinator

**OTHERS PRESENT**

Joseph Shaia, AU717  
Erike P. Brown  
Tammy Moore  
Gayle Dietrich, Spouse

**REGULATION-UNLICENSED ACTIVITY**

Mr. Michael Green, Regulation Unlicensed Activity Coordinator appeared before the board of auctioneers to inform the members on the most recent activity of the department. The department has setup a tollfree line that is available for the consumers to file complaints between the hours of 8:00am to 6:00pm. The department released a brochure *Title Protect Your Property Hire Only Licensed Auctioneer*. Within this brochure it outlined how to find an auctioneer, make sure he/she is licensed, how to ask for a resume, how to make an inventory of your goods and how to obtain a copy of a written contract prior to the auction. If a consumer suffers a loss as a result of an auction, they may be eligible to apply to the auctioneer recovery fund for relief. This brochure will be on the department's website for the public to review or to download. The department has plans to place these brochures in nursing homes, hospitals, retirement villages and wherever people would be interested. Mr. Green asked the board members for their suggestions and they suggested that he provide copies of the

brochure to the auctioneers, Chamber of Commerce, Better Business Bureau, senior centers for the elderly, Florida Auctioneers Association, high schools and colleges. Mr. Green printed 3000 brochures and he will probably need an additional 10,000 after hearing from the board.

### **APPROVAL OF MINUTES FROM DECEMBER 12, 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**

AYERS, KATHLEEN A	AU 2690
CABALLERO, JOHN	AU 3758
DRAUGHN WOLOSKI, LINDA E	AU 3786
DUCAT, ROBERT GEORGE	AU 3770
FAYE, DENNIS ANDREW SR	AU 3778
GALL, GLORIA	AU 3761
HART, RICHARD	AU 3750
JONES, GORDON PRITCHETT	AU 3771
KIMBALL, JEFF S	AU 3751
KRATZER, NANCEY	AU 3774
LAMPMAN, FREDERICK MEARS	AU 3752
MCKNIGHT, RAYMOND	AU 3776
MOYE, MARCUS HARLEY	AU 3780
PEROE, CYNTHIA EVELYN	AU 3757
PERRY, MICHAEL GLENN	AU 3785
PROFITT SR, KENT ALLEN	AU 3755
SEUIS, DAVID E	AU 3759
SHULER, DEBRA A	AU 3756
SOLOMON, KELLY R	AU 3772
STUART, MORGAN HOWARD	AU 3760
WILSON, DEBORAH B	AU 3762
YANOVITSKY, MARGARITA	AU 3767
ZIENTARA, JIM ALAN	AU 3754

#### **AUCTIONEER BY ENDORSEMENT**

BECKER, IRA	AU 3788	IL
BURNS, THOMAS	AU 3768	OH
CHARYN, RONALD D	AU 3782	WA/SC/GA
CULLUM, KENNETH KEITH	AU 3773	WI
DAVIS, STANFORD	AU 3787	TX/NH/NC
DUCKWALL, DANIEL RAY	AU 3766	LA/TX

HIGGINS, JOHN ROBERT	AU 3783	TN
HINSON, RICKEY D	AU 3764	TN/KY/MS
JONES, JENNIFER D	AU 3749	MS/LA
KITZMAN, DAVID KENT	AU 3773	WI
MCINNIS, PAUL G	AU 3781	NH/ME/MA
RATLIFF, SHANE LAVEM	AU 3784	GA/IL/TX
ROBERTS, MICHAEL SCOTT	AU 3763	GA/AL
WILCOX, DANIEL BEDFORD	AU 3775	
WISE, GUERRY DELL	AU 3779	GA

#### **AUCTION BUSINESS**

ACE AUCTIONS OF AMERICA INC	AB 2703
ANDREW CAIN AUCTIONS	AB 2701
AWE AUCTIONS & APPRAISALS LLC	AB 2694
B AND B ENTERPRISE OF BREVARD LLC	AB 2690
BEJ HOLDINGS LLC	AB 2706
BARLOW AUCTIONS INC	AB 2688
BEST BUY AUTO OF TAMPA	AB 2692
BUTTERFIELD INVESTMENTS INC	AB 2706
CENTRAL FLORIDA AUCTIONS	AB 2689
CROWDERS AUCTION SERVICE INC	AB 2693
FARNSWORTH AUCTIONS AND ESTATES SALES	AB 2691
FITZGERALD AUCTIONS	AB 2948
FLORIDA COMMERCE GROUP LLC	AB 2710
GULF COAST AUCTION & ESTATE SALES	AB 2704
HALL AUCTION SERVICES LLC	AB 2687
J KENTON AUCTIONS	AB 2698
LUDLUM REALTY & AUCTION CO	AB 2711
MIKE TEMPERINO INC	AB 2695
OLD TOWN AUCTION HOUSE	AB 2707
RUSSO AND STEELE	AB 2699
VERO BEACH AUCTION INC	AB 2696
WHITFIELD AUCTION	AB 2705
ZALDIVA INC	AB 2709

#### **AUCTIONEER APPRENTICE**

FINKEL, AARON H	AE 386
HAMBURG, DOLORES R	AE 384
JACKSON, GERMAINE BLANCE	AE 385
ST PIERRE-CHARLES, DENNIS PAUL	AE 387
STRAUSS, ROBERT	AE 383
THORNTON, LORI K	AE 382

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

The board wanted to know the reason why Kathleen A. Ayers' name had appeared on the ratification list twice with licensure numbers AU3753 and AU2690. It was discovered that this was a mistake and AU2690 belonged to Charlene Ann Gray.

## **PROSECUTING ATTORNEY REPORT**

### **CASE LOAD STATUS**

Mr. Leigh's report dated February 27, 2008 reflected two cases in legal, two cases set for probable cause, one case set for expert review, four cases set for administrative complaint, one case was set for default, one case was set for settlement negotiations and four cases were set for board presentation. There were a total of fourteen cases in legal.

Mr. Leigh reported an updated list dated March 11, 2008 and it reflected five cases in legal, one case set for expert review, four cases set for administrative complaint, one case was set for settlement negotiations and four cases set for board presentation. There were a total of fourteen cases in legal.

## **PROSECUTING ATTORNEY REPORT**

### **#2007-012768, Joseph Shaia**

The respondent was present and was not sworn in via the court reporter. Mr. Shaia's attorney (Nicholas A. Shannion, Esq.) has been working with Ms. Leigh regarding his client's (Mr. Shaia) revoked auctioneer license. Ms. Leigh stated that she had not been informed by Mr. Shaia's attorney of his presence at the board meeting. The appellant court has jurisdiction over this case. Mr. Nicholas A. Shannion, Esq. filed a motion for this case to stay with the Fifth District Court of Appeals and the motion has not been ruled on. Ms. Leigh and Ms. Edwards advised him that the board cannot discuss his case. The board apologized to him for the miscommunication and advised him to get in touch with his attorney.

Motion: Mr. Accardo made a motion for the board not to hear Joseph Shaia's case because the board does not have jurisdiction over this case.

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

### **#2007-001379, BOCA Auction Galley, Inc.**

Ms. Leigh presented case #2007-01379, AB1603. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on June 25, 2006. The administrative complaint charged the respondent with violating Chapter 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. The respondent has failed to file an election of rights form or otherwise 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.

Ms. Leigh stated that *“the department believes 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 BOCA Auction Gallery, Inc, case #2007-001379, AB1603, pay a fine in the amount of \$1000, costs of \$537.38 and revoke his license.*

Record reflected that Mr. Dietrich joined the meeting at @ 9:50am.

Motion: Mr. Accardo made a motion for the board to go beyond the limitation of guidelines for BOCA Auction Gallery, Inc. to pay a \$3000 fine, \$537.38 costs and revoke his license based on violation of 61G-7.030 (2) (d,e,h,j,& l).

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

This company has failed to pay the fines on there cases.

Motion: Mr. Dietrich made a motion for board staff to send a copy of BOCA Auction Gallery, Inc’s final order to E-bay.

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

### **#2007-0011316, Dion Abadi**

Ms. Leigh presented case #2007-0011316, AU2762. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on August 24, 2007. The respondent was served by publication on October 11, 18, 25 and November 1, 2007. The respondent has been charged with violating Section 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) and Section 468.388 (11)(a) all advertising by an auctioneer or auction business shall include the name and Florida license number of such auctioneer and auction business. 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 believes 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 Dion Abadi, case 2007-011316, AU2762, pay a fine in the amount of \$250, costs of \$147.44 and placed his license on probation.”*

Motion: Mr. Accardo made a motion for Dion Abadi to pay a \$250 fine, \$147.44 costs and 1 year probation.  
Second: Mr. Shearer seconded the motion and it passed unanimously.

#### **#2007-018727, Dion Abadi**

Ms. Leigh presented case #2007-018727, AU2762. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on August 24, 2007. The respondent was served by publication on October 11, 18, 25 and November 1, 2007. The respondent has been charged with violating Section 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) and Section 468.388 (11)(a) all advertising by an auctioneer or auction business shall include the name and Florida license number of such auctioneer and auction business. 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 right to a hearing.  
Second: Mr. Accardo seconded the motion and it passed unanimously.

Ms. Leigh stated that *“the department believes 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 Dion Abadi, case #2007-0018727, AU2762, pay a fine in the amount of \$250, costs of \$160.49 and 1 year probation to be served with case 2007-011316.*

Motion: Mr. Accardo made a motion for Dion Abadi to pay a \$250 fine, \$160.49 costs and 1 year probation to be served with case 2007-011316.  
Second: Mr. Dietrich seconded the motion and it passed unanimously.

### **#2007-039239, Seymore H. Jacobson**

Ms. Leigh presented case #2007-039239, AU3047. The respondent was not present and was not sworn in via the court reporter. The department filed an administrative complaint against respondent on November 2, 2007. The respondent has been charged with violating Section 468.389 (1)(g) making any material false statement on a license application. 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. Dietrich 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 believes 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 conclusion 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 Seymore H. Jacobson, case #2007-0039239, AU3047, pay a fine in the amount of \$1000, costs \$1,114.89 and revoke his license.*

Motion: Mr. Shearer made a motion for Seymore H. Jacobson to pay a \$1000 fine, \$1,114.49 costs and revoke his license.  
Second: Mr. Dietrich seconded the motion and it passed unanimously.

Recess for 5 minutes

### **BOARD ATTORNEY**

The board requested Ms. Edwards to develop language to be added to the Rule as follows *“if a respondent failed to pay a fine or costs, it will be considered as an aggravating factor.”*

Motion: Mr. Shearer made a motion to give Ms. Edwards permission to add failure to pay fines and costs will be considered as an aggravating factor for disciplinary cases.

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

Ms. Edwards indicated that there are two rules in the Hopper. Rules 2.006, F.A.C. reinstate a null and void license and 3.001, fees to reinstate a null and void license.

The Board decided that the department's null and void form does not meet the board standards for reinstatement of an auctioneer license. At this time the board has decided to continue using their form for reinstatement of an auctioneer license.

Mr. Moecker praised Ms. Edwards for her hard work.

### **BOARD CHAIR REPORT**

Mr. Moecker had a meeting with the Florida Bar Executive Committee for the Business Law Section in January by invitation regarding the fingerprint bill (House Bill 17 and Senate Bill 2332), he was told by the committee that they will support the bill. Mr. Moecker asked the board to continue to work with their legislators for their support as well.

Ms. Edwards reminded the board members of the Sunshine Law. Also, she requested staff to send her a copy of the bill if it passes and she will start drafting the fingerprint rules.

### **EXECUTIVE DIRECTOR'S REPORT**

#### **(Operating, Recovery, Unlicensed)**

Mr. Spivey reviewed the financial reports ending September 30, 2007. He indicated that the *“operation account shows a balance of \$157,775. The operating account for the recovery fund shows a balance of \$826,401. In the unlicensed activity account shows a balance of \$30,942.”*

Mr. Spivey stated that a recovery payment has been made to Ms. Cheri Melchione before Christmas last year. Ms. Melchione was extremely pleased with the board's actions on her behalf.

Mr. Spivey reported the financial report ending December 31, 2007. He indicated that the *“operation account shows a balance of \$275,485. The operating account for the recovery*



*fund shows a balance of \$787,177. In the unlicensed activity account there's a balance of \$37,108."*

**Mr. Frank Bizarro** (*auctioneer application by endorsement*)

Mr. Bizarro was charged in 2001 with civil action for unfair competition (auto sale) in the state of California. Based on Chapter 468.389 (1a), (2a) Florida Statutes, the board can not consider his application for licensure in the state of Florida.

Motion: Mr. Dietrich made a motion to deny his request for licensure in the state of Florida.

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

**Ms. Nina Bennett** (*recovery application*)

Mr. Spivey presented Ms. Bennett's recovery application for a claim against Karen Emmerson, AB2453 in the amount of \$5,200.95. Ms. Emmerson is not licensed as an auctioneer in the state of Florida. She's presently an applicant for the auctioneer examination. Ms Bennett presented a judgment to the board from the court system against an individual instead of the company. She has failed to provide information on collection of the judgment. The board is unable to take action on this claim at the time. The board asked Ms. Leigh to respond to Ms. Bennett on this claim.

Motion: Mr. Accardo made a motion to deny her claim.

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

The board members requested board staff to have the following companies investigated via Regulations and report back to the board.

Antique Wanted Dead or Alive

Wanted Antique, Inc.

A R Inc

Karen Emmerson

David Brooks

The Bureau of Education was unable to enter into a reciprocity agreement with the state of Missouri.

Mr. Spivey provided the board with a short course on submitting their travel vouchers.

**Ms. Jessica Stetler Grover**

**Maynard Cooper & Gale PC**

Mr. Spivey indicated that he had spoken with Ms. Grover regarding auto auction sales. Ms. Grover has provided a letter to the board with two questions to be reviewed and responded to.

- I. Can dealerships meet auctioneer licensure requirements by hiring a licensed auctioneer to conduct internet auctions?
- II. Would the dealerships need to obtain business auctioneer licenses in addition to hiring an auctioneer to conduct the internet auctions?

Before the board can release this information to Ms. Grover, she must submit her request in the format of a declaratory statement.

Ms. Edwards will respond to Ms. Grover's request.

### **OLD BUSINESS**

Mr. Dietrich attended a NALLOA meeting at no cost to the board.

Ms. Edwards stated that many years ago the auctioneer board had a bond requirement. She wanted the board members to give her the reason it was deleted from the statutes. The reason the bond requirement was deleted from the statutes and the recovery fund added was because it was a cost savings to the department.

### **NEW BUSINESS**

June 11, 2008 (board staff will determine)

Proposed Meeting Dates for 2008 – 2009

September 10, 2008

December 10, 2008

March 11, 2009

June 10, 2009

Mr. Spivey exited the meeting at 12:40pm to attend another meeting in Orlando.

Mr. Shearer presented an invitation he had received from NALLOA meeting. He voiced his concern on attending the meeting.

Mr. Moecker informed him to speak with Ms. Jones regarding the funding and details following the meeting.

Mr. Dietrich voiced his concerns of attending the meeting.

### **ADJOURNMENT**

Motion: Mr. Accardo moved to adjourn.

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

The meeting was adjourned at 11:15pm.