

**MEETING OF
THE FLORIDA BOARD OF AUCTIONEERS**
Department of Business and Professional Regulation
The Caribe Royal Orlando
8101 World Center Drive
Orlando, Florida 32821
Monday, June 5, 2006 @ 9:00 am est.

CALL TO ORDER

Mr. Deitrich, Chair, called the meeting to order at 9:45 a.m. There was a roll call and a quorum was established. Mr. Deitrich requested that everyone stand and give the pledge of allegiance followed with a silent invocation.

BOARD MEMBERS PRESENT

H. Fred Dietrich, III, Chair
Michael Moecker, Vice-Chair
Donald Shearer (*absent*)
Jo Ann C. Hill (*absent*)
Craig Accardo

Mr. Spivey indicated that the board approved Ms. Hill's absence at the last meeting. Mr. Shearer called and informed Mr. Spivey that he had jury duty and he will not be attending the meeting. Both absences were excused.

STAFF PRESENT

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

OTHERS PRESENT

Chris Fisher, Fisher's Auction
Floyd Harrison, Harrison Auction
Ray J. Brewer, Jr., Brewer Auction Source
Ricky Coon, American Realty & Auction, West Palm
Jim Wild, Wild Auction
Manny Perr and Flynn Pesco,
Wildwood Antique Mall & Auction House
Rose White, Moecker Auctions
Gayle Dietrich, Fred Dietrich & Associates
Cindy Green, Court Reporter
American Court Reporting

APPROVAL OF MINUTES FROM MARCH 16, 2006

The minutes were approved with two noted corrections on page 18, last paragraph, first sentence *Mr. Moecker's* name was spelled incorrectly; and on page 19, second

paragraph from the bottom, fifth line up the word *administrative jack* changed to *administrative law*.

Motion: Mr. Moecker moved to approve the minutes with the noted two corrections.

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

APPLICATIONS

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

AUCTIONEER BY EXAMINATION

HANCOCK, DEBORAH	AU 3419	PARVIZIAN, HAMID	AU 3464
WESTMORELAND, MATTHEW L	AU 3439	COMPUTER LICENSING ERROR	AU 3465
NICHOLLS, JOHN S	AU 3445	COMPUTER LICENSING ERROR	AU 3466
NICHOLLS, CHARLES E	AU 3446	COMPUTER LICENSING ERROR	AU 3467
MAUCK, STACEY L	AU 3447	LONG, JUDITH A	AU 3468
BULEZIUK, MARK P	AU 3448	SPRESTER, ROGER A	AU 3469
JOHNSTON, JEFFREY J	AU 3449	GARRETT, PATTY KAY	AU 3470
FOEGE, JONATHAN D	AU 3450	COMPUTER LICENSING ERROR	AU 3471
HARTMAN, RANSOM R	AU 3451	EARLYWINE, AUSTIN R. T.	AU 3472
JOHNS, CHADY	AU 3454	LONG JR., THOMAS R	AU 3473
ARCILA, NESTOR E	AU 3455	HOLCOMBE, JOEL CASEY	AU 3474
RALSTON, STEPHEN M	AU 3456	DAVIS, JOSEPH R	AU 3477
WOODWARD, JOHNATHAN D	AU 3457	WELCH, ROBERT L	AU 3478
LOWREY, THOMAS W	AU 3459	BASHAW, JASON NEIL	AU 3479
BAKER, MARK REX	AU 3460	COTTON, JULIE ANN	AU 3480
BAKER, MARCI CAREN	AU 3461	TRAWICK, JAMES J	AU 3483
KARRAS, THOMAS JOHN	AU 3462	MARTIN, DONALD R	AU 3484
		DUFRESNE, ROBERT A	AU 3485

AUCTIONEER BY ENDORSEMENT

ROBILLARD, JOHN A	AU 3437	PA	WEEKS, JAN L	AU 3452	NC
STONE, MICHAEL A	AU 3438	AL,	JOHNSON, THOMAS A	AU 3453	OH
		MS, TX	SWEAZY, STEVE E	AU 3458	KY
DEMPSEY JR, LOUIE R	AU 3440	GA	FOUREMAN, DAVID C	AU 3463	OH
DEMPSEY, FRANK L	AU 3441	GA	BRITTAIN, ROBERT F	AU 3475	PA
DEMPSEY, LOUIE R	AU 3442	GA	POUND, KEITH A	AU 3476	KY
CROWE JR, RANDY D	AU 3443	GA	HANLEY, MICHAEL P	AU 3481	TX
ROGERS, RUSSELL M	AU 3444	GA	WALTER, WILLIAM D	AU 3482	OH
			GRAY, DEBORAH J	AU 3486	OH

AUCTION BUSINESS

LAIRSON'S ELITE AUCTION SERVICES	AB 2504
ALL AMERICAN AUCTIONS	AB 2505
NICHOLLS AUCTION CO, INC	AB 2506
Rule # One Antique Auctions & Estate Liquidators	AB 2507
STONE AUCTIONEERS & APPRAISERS	AB 2508
N.R.L.L. EAST, LLC	AB 2509
UMSTED'S FAMILY AUCTION	AB 2510
1 MORE TIME	AB 2511
PHIL MORTENSEN AUCTIONS	AB 2512
MAZUMA AUCTION COMPANY	AB 2513
THE SENTRY ORGANIZATION, INC	AB 2514

NORTH AMERICA AUCTIONEERS INC	AB 2515
FOUREMAN AND FOUREMAN AUCTION SERVICE LLC	AB 2516
AUCTIONPROP FLORIDA LLC	AB 2517
T.M. RADFLOWER AUCTIONS	AB 2518
RANGER AUCTION COMPANY INC.	AB 2519
HAMMERSMITHS AUCTION INC	AB 2520
ROGER ALLEN SPRESTER	AB 2521
BAKER AUCTION SERVICES CORP	AB 2522
EVEREST AUCTIONS AND ESTATES LLC	AB 2523
THE LUCKY 3 AUCTION	AB 2524
JOE DAVIS AUCTION CO.	AB 2525
DOCSIDE AUCTION GROUP, INC	AB 2526

AUCTIONEER APPRENTICE

DEIBERT, GREG W	AE 346
DAVIS, JAMES R	AE 347
ESSIGMANN JR., JOHN C	AE 348

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

PROSECUTING ATTORNEY REPORT

MOTION FOR WAIVER

#2004-000601, A & E Auction, Inc.

Ms. Leigh presented case # 2004-000601, A & E Auction, Inc. AB 1122; the department filed an administrative complaint against respondent on January 26, 2006. The respondent was served with an administrative complaint on January 30, 2006. The administrative complaint charged respondent with violating Section 468.389 (1) (e), F.S. 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 other wise 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 waived his right to request a hearing where there is a disputed issue of material fact. The department believed that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived his rights to a hearing.

Motion: Mr. Moecker moved to approve that the respondent waived his rights to a hearing.
 Second: Mr. Accardo 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 in conclusion of the law.

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

Ms. Leigh stated that *"the department's recommendation in this case is that A & E Auction, Inc. pay a fine in the amount of \$2,000.00, cost of \$481.66, and restitution in the amount \$4639.25 to the complainant."*

Motion: Mr. Moecker moved to approve counsel recommendation.

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

EMERGENCY MOTION FOR CONTINUANCE OF A HEARING

#2003-075669, Auction Warehouse of Boca Raton

Ms. Leigh indicated that this emergency motion for continuance of a hearing was not drafted by her; it was drafted by the attorney for Auction Warehouse of Boca Raton, Ms. Laurie Schrier. This motion is in reference to cases 2005-003621 through case number 2004-032183. These cases were brought before the board at the last meeting and these cases could have been brought to the board many months earlier by default. It was hurricane season and the company was located in Boca Raton. Ms. Schrier was allowed additional time because Ft. Lauderdale was out of power. I informed her that she will not be in default for the next thirty days. Ms. Schrier called a second time and she was given an additional extension of fifteen days. I feel as if Ms. Schrier has had ample time to respond to the board. The emergency motion for continuance of a hearing was indicated by Ms. Schrier that it was faxed to my office on March 14, 2006, however it was not faxed to my office on March 14, 2006. I have repeatably asked Ms. Schrier for a copy of the fax cover sheet or some other document proving that the emergency motion for continuance of a hearing was received by my fax machine located right out side of my office the day she indicated that it was faxed. Mr. Schrier has been unable to provide proof of me receiving her fax. I received a copy of a fax on March 18, 2006 that came to my office through interoffice mail. Board staff indicated that the interoffice copy did not come into their fax machine. The agency clerk office did not receive this motion of continuance for a hearing until March 20, 2006, which was four days after it was set for hearing. Ms. Schrier received and signed for the notice of a hearing that Mr. Spivey and Ms. Jones sent out to her certified mail on February 15, 2006, which is a full month before the hearing. Never once did I receive a fax or a telephone call from Ms. Schrier. There is a letter dated February 24, 2006 in the material where Ms. Schrier requested me to provide material to her. This letter was never received in my office or by me and I have no idea where this letter came from. Throughout the entire summer, fall and early spring I was in phone conversation with Ms. Schrier and provided multiple courtesies to her so she would have additional time to respond to the hearings. The emergency motion for continuance of a hearing was received after the hearing. I am requesting that the board deny this motion to rehear these cases that went before the board on March 16, 2006. Ms. Edwards had already drafted the final orders in these cases, which have already been clerked and sent out to all of the complainants.

Motion: Mr. Moecker moved to deny Ms. Schrier's request for an emergency motion for continuance of a hearing.

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

CASE LOAD STATUS

Ms. Leigh presented the prosecuting attorney's report dated May 2, 2006. The May 2, 2006 report reflected six (6) confidential cases in the legal department, two (2) cases were set for the probable cause panel, six (6) administrative complaints have been filed, thirteen (13) cases requested formal hearings, one (1) case is in settlement negotiations, one (1) case was set for board presentation, and twenty-two (22) cases are waiting final orders. There were thirty-three (33) public cases in legal and a total of fifty-one (51) open auctioneer cases.

The May 31, 2006 report reflected two (2) confidential cases in the legal department, six (6) cases set for the probable cause panel, three (3) cases administrative complaints had been filed, fifteen (15) cases for formal hearing, three (3) cases pending informal hearing, and one (1) case a waiting a final order. There were twenty-two (22) public cases in legal and a total of thirty (30) open auctioneer cases.

Mr. Spivey indicated that the handout from Ms. Leigh on A & E Auction has confidential information in it and it will be collected at the end of the meeting.

BOARD ATTORNEY

Ms. Edwards indicated that the Board was still waiting on the department form on the null and void license and without this form she still doesn't know which way to go.

Mr. Spivey indicated that the department recently agreed to do a form. This form will be provided to the executive directors as an example to provide instructions to the applicants and the board.

Ms. Edwards indicated that there was some confusion at the last meeting because every case on Auction Warehouse of Boca Raton, Inc. was issued restitution. After the complainants received their notices they called staff demanding their restitution without going through the proper channels. Ms. Edwards provided the board with a handout on the orders of restitution and petitions to recover from the recovery fund. The handout explained what the recovery fund is, how the fund is accessed, and who is eligible for these funds. The educational handout was given to the board and staff so that they can have a better understanding of the recovery fund when they are working with cases that are eligible for restitution.

Ms. Edwards also stated that *"I want to inform the public that the cases heard here today have nothing to do with individual licensees behaving improperly. This has to do with auction businesses not the auctioneers that conduct the auctions."*

Mr. Dietrich stated *"this comment is more for our audience. I think you can see that we are blessed to have between Barbara, Jessica, Tony and Renese an outstanding staff in Tallahassee that is really doing a great job for us as a profession. One thing that I found when walking the halls of the legislation at different times they inquire, why do you have an auctioneer license in the state of Florida? What do you test them on, to see how fast somebody can talk? They don't*

realize that people's life savings is on the auction block. I want to thank our staff for the outstanding job that they have done on educating the people in Tallahassee, in the department and the legislation on how important this profession is. We as the board are really blessed."

BOARD CHAIR REPORT

STATUS OF FINGER PRINT/BACKGROUND LEGISLATIVE BILL

Mr. Dietrich stated that *"the fingerprint bill died but we will try again next year. He asked the board to entertain a motion to recommend the same two packets (SB 1486 & HB 423 CS) for legislation next year."*

Motion: Mr. Moecker moved to approve SB1486 and HB 423 CS to be recommended for legislation next year.

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

Mr. Spivey indicated to the board that in case the Department doesn't submit a packet he suggested that the board should try and locate a sponsor.

EXECUTIVE DIRECTOR'S REPORT

Mr. Spivey indicated that the complaints status report was for information purposes only to show the board the number of complaints moving through the department on unlicensed activity investigations.

Mr. Spivey put together some purposed dates for the new fiscal year starting July 1, 2006 for the upcoming board meeting: September 13, 2006, December 13, 2006, March 14, 2007 and June 14, 2007. He asked the board to review the dates and see if there are any changes that need to be made.

Mr. Moecker asked if the September 13, 2006 meeting can be moved to September 20, 2006 and he suggested a South Florida meeting.

It was indicated that the National meeting ***[the board voted to change National meeting to Florida meeting during the September 20, 2006]*** will be held on November 12-14, 2006 in Palatka, Florida.

The board approved the next meeting to be held on Wednesday, September 20, 2006 in South Florida.

APPLICATION REVIEW

Mr. Spivey indicated that Jeff Dodson's application was sent to the board office from the central intake application unit because he had a criminal background six years ago. He was charged with unlicensed activity in another state. Mr. Dodson provided this paper work along with his application. Since then he has paid his fine and all charges has been released. He is presently licensed in the State of Georgia. Florida Statute 468.385 states that he should not be license in the state of Florida. Staff does not have

the authority to approve this application that's the reason it's on the agenda for board to review and approve or deny.

Ms. Edward stated *"for the statute said, no person shall be license as an auctioneer or a apprentice if he or she: has committed any act or offense in this state or any other jurisdiction which would constitute a basis for disciplinary action under 468.389. Look at 468.389 a violation of any law relating to trade or commerce of this state or of the state in which an auction is conducted and operating with out a license in the state of Alabama was a violation of law in the state of Alabama.*

Mr. Dietrich stated that he's been license in Georgia.

Ms. Edward stated *"also a violation in the state of Florida had he come here. On the other hand."*

Mr. Dietrich stated that he's been license in the state of Georgia for thirteen years.

Mr. Edward stated *"My concern is that if we don't let him in he's going to be practicing auctioneering in Florida without a license. However if he does or if we license him and he get in trouble and has his license revoke and I am still concern that he will still end up practicing in Florida without a licensee. I think we are kind of stuck."*

Motion: Mr. Moecker moved to approve Mr. Dodson's application for examination and licensure in the state of Florida.

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

NEW BUSINESS

Election of Officers

Mr. Dietrich was nominated by Mr. Moecker to serve as chair for another term.

Motion: Mr. Moecker moved to approve Mr. Dietrich as Chair for another term.

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

Mr. Moecker was nominated by Mr. Accardo to serve as vice-chair for another term.

Motion: Mr. Accardo moved to approve Mr. Dietrich as Chair for another term.

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

PUBLIC COMMENTS

Mr. Fisher thanked the board for participating in their summer conference. He stated *"for a long time I wondered what the auctioneer's board does and by attending this meeting I have a better understanding. I have learned a lot about how the board operates."*

ADJOURNMENT

Motion: Mr. Dietrich moved to adjourn.

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

The meeting was adjourned at 10:55 am.