

MINUTES

BOARD OF AUCTIONEERS
Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399
Telephone Conference Call
March 26, 2003

The Board of Auctioneers meeting was called to order at approximately 10:05 a.m. by Mr. H. Fred Dietrich, III, Chair.

Board Members Present

H. Fred Dietrich, III, Chair
JoAnn "Jody" Hill, Vice Chair
Annette Elms
Craig Accardo
Michael Moecker

Other Persons Present

Julie Malone, Executive Director, DBPR
Erica Glover, Assistant Attorney General, Board Counsel
Krista B. Woodard, Government Analyst I, DBPR
Rosanna Catalano, Assistant Attorney General
Charlie Pellegrini, Assistant General Counsel, DBPR

Interested Parties Present

Kenneth Stockdill, Respondent
Johnny G. Isitt, Respondent
Thomas W. Bailey, Respondent
Mitchell Alford, Respondent
John Maddelin, Respondent
Michael Brown, Respondent
Ronnie Van Horn, Respondent
Michael Saylor, Respondent

The meeting was opened with a roll call and a quorum was established.

Approval of Minutes: December 7, 2002

A motion was made to accept the minutes as printed by Ms. Hill. Ms. Elms seconded the motion and the motion passed unanimously.

Discipline

Charlene Ann Gray (Speer); case no. 2001-03649

Ms. Speer was not present or represented by counsel. Mr. Pellegrini advised the board that an administrative complaint was filed in this matter on May 2, 2002. The administrative complaint alleged violations of Section 467.389(j), Florida Statutes by violating Section 468.388(1)(a) and (c), Florida Statutes and Section 468.388(2), Florida Statutes. Ms. Hill made a motion to accept the findings of fact and conclusions of law as set forth in the administrative complaint. Ms. Elms seconded the motion and the motion passed unanimously. In response to the charges, Ms. Speer executed a settlement stipulation on February 18, 2003 which includes a twelve (12) month probation of Ms. Speer's auctioneer license, payment of a \$500 administrative fine and assessment of costs totaling \$1147.94. Payment of fines and costs imposed may be paid in a lump sum or paid within the period of probation in 12 minimum monthly installments of at least \$141.49. Mr. Moecker made a motion to accept the settlement stipulation. Ms. Elms seconded the motion and the motion passed unanimously.

Masarkytown Livestock Auction; case no. 2001-08249

Ms. Charlene Gray Speer was not present or represented by counsel. Mr. Pellegrini advised the board that an administrative complaint was filed in this matter on March 6, 2003. The administrative complaint alleged violations of Sections 468.388(1)(a) and(c), Florida Statutes and Section 468.388(2), Florida Statutes. Mr. Moecker made a motion to accept the findings of fact and conclusions of law as set forth in the administrative complaint. Mr. Accardo seconded the motion and the motion passed unanimously. In response to the charges, Ms. Speer executed a settlement stipulation on February 18, 2003 which includes a twelve month probation of the auction business license for Masarkytown Livestock Auction, payment of a \$500 administrative fine and assessment of costs totaling \$116.17. Payment of fine and costs imposed may be paid in a lump sum or paid within the period of probation in 12 minimum monthly installments of at least \$51.25. Mr. Moecker made a motion to accept the settlement stipulation. Ms. Hill seconded the motion and the motion passed unanimously.

Consideration of Applications – License Ratification List

Licensed by Examination

Mr. Moecker made a motion to approve the applicants licensed by examination. Ms Elms seconded the motion and the motion passed unanimously.

Licensed by Reciprocity

Ms. Hill made a motion to approve the applicants licensed by reciprocity. Mr. Moecker seconded the motion and the motion passed unanimously.

Complete Null and Void

Mr. Moecker made a motion to approve the applicants licensed from Null and Void status. Ms. Elms seconded the motion and the motion passed unanimously.

Licensed Apprentice

Ms. Elms made a motion to approve the applicant licensed as an apprentice. Mr. Moecker seconded the motion and the motion passed unanimously.

Mitchell L. Alford

Mr. Alford was present but was not represented by counsel. Ms. Erica Glover swore in Mr. Alford. Mr. Alford addressed the board concerning the charge of Driving under the Influence listed on his application. After further discussion, Mr. Moecker made a motion to approve Mr. Alford's application for examination. Ms. Elms seconded the motion and the motion passed unanimously.

Thomas William Bailey

Mr. Bailey was present but was not represented by counsel. Ms. Glover swore in Mr. Bailey. Mr. Bailey addressed the board concerning the charge of Sale of Marijuana listed on his application for licensure. After further discussion, Mr. Moecker made a motion to approve Mr. Bailey's application for examination. Ms. Hill seconded the motion and the motion passed unanimously.

Michael A. Brown

Mr. Brown was present but was not represented by counsel. Ms. Glover swore in Mr. Brown. Mr. Brown addressed the board concerning the charge of Breaking and Entering and Assault listed on his application for licensure. After further discussion, Mr. Moecker made a motion to approve Mr. Brown's application for examination. Ms. Hill seconded the motion and the motion passed unanimously.

Samuel W. Foose

The board agreed to table discussion of Mr. Foose's application for licensure by reciprocity until it is deemed complete.

Johnny G. Isitt

Mr. Isitt was present but was not represented by counsel. Ms. Glover swore in Mr. Isitt. Mr. Isitt addressed the board concerning the criminal charges listed on his application for licensure. Ms. Elms asked Mr. Isitt if his civil rights had been restored. He advised the board that he was not sure of the restoration of his civil rights. After further discussion, Mr. Moecker made a motion to deny Mr. Isitt's application for examination due to criminal history. Ms. Elms seconded the motion and the motion passed with a vote of 3 to 2, with Mr. Accardo and Mr. Dietrich opposing.

John F. Maddelin

Mr. Maddelin was present but was not represented by counsel. Ms. Glover swore in Mr. Maddelin. Mr. Maddelin addressed the board concerning the charge of Domestic Violence listed on his application for licensure. After further discussion, Mr. Accardo moved to table discussion of Mr. Maddelin's application until he is provides the board with the disposition of the case and three to five letters of reference. Mr. Moecker seconded the motion and the motion passed unanimously.

Michael J. Saylor

Mr. Saylor was present but was not represented by counsel. Ms. Glover swore in Mr. Saylor. Mr. Saylor addressed the board concerning the charges of Driving Under the Influence listed on his application for licensure. After further discussion, Mr. Moecker made a motion to approve Mr. Saylor's application for examination. Mr. Accardo seconded the motion and the motion passed unanimously.

Kenneth James Stockdill

Mr. Stockdill was present but was not represented by counsel. Ms. Glover swore in Mr. Stockdill. Mr. Stockdill addressed the board concerning the charges of Public Exposure and Solicitation for Prostitution listed on his application for licensure. After further discussion, Mr. Moecker made a motion to table discussion of Mr. Stockdill's application until he provides the board with three to five letters of recommendation, a letter from his doctor explaining his medical problem, and a certified copy of the disposition for the public exposure charge. Ms. Hill seconded the motion and the motion passed unanimously.

Ronnie Van Horn

Mr. Van Horn was present but was not represented by counsel. Ms. Glover swore in Mr. Van Horn. Mr. Van Horn addressed the board concerning the charge of Reckless Driving listed on his application for licensure. After further

discussion, Mr. Moecker made a motion to approve Mr. Van Horn application for examination pending receipt of his certificate of school completion. Mr. Accardo seconded the motion and the motion passed unanimously.

The board took a brief recess from 12:15 p.m. until 12:25 p.m.

Reports

Board Counsel

Ms. Erica Glover, Assistant Attorney General, introduced herself as the new counsel for the Board of Auctioneers.

Auctioneer Recovery Fund

Ms. Glover advised the board that she had received an auctioneer recovery fund claim from Ms. Ann Carlton against Jay Kodner and Kodner Galleries, Inc. She informed the board that a final judgment from the courts had not been issued nor is there a final order directing Mr. Kodner to pay restitution to Ms. Carlton. Ms. Glover recommended to the board to deny the claim without prejudice to allow Ms. Kodner time to file another claim once she receives a final judgment and establishes that she is unable to collect the amount of her claim.

Ms. Elms made a motion to deny the claim of Ms. Carlton without prejudice to allow her six months to file another claim once she receives a final judgement and establishes that she is unable to collect the amount of her claim. Mr. Moecker seconded the motion and the motion passed unanimously.

Board Members

Chair Dietrich informed the board that he and Ms. Julie Malone, Executive Director, attended the NALLOA meeting in New Orleans. He informed the board that Tod Cohen, eBay Assistant General Counsel for Global Policy, did a presentation and answered general questions about their on-line auction procedures.

Ms. Malone informed the board about a presentation by eBay. She also informed the board that the Federal Trade Commission had a conference about Internet use, i.e. for auctions.

She advised the board that the next NALLOA meeting would be held in San Antonio, Texas.

Division of Regulation

Ms. Malone mentioned the Quarterly Report from the Division of Regulation contained in the agenda materials.

Department Attorney – Charles Pellegrini

Prosecuting Attorney's Report

Mr. Pellegrini gave an overview of the Prosecuting Attorney's Report contained in the agenda. He advised the board that as of March 17, 2003 there were 20 cases in legal.

Executive Director – Julie Malone

Ms. Malone gave a brief overview of the Operating Account Financial Report and the Auctioneer Recovery Fund Financial Report for September 30, 2002 and 2001.

Ms. Malone also informed the board that the Legislation did a cash sweep of the Trust Fund to the Working Capital Trust Fund.

Ms. Elms requested clarification on the use of the trust fund and the reasoning for the sweep by the Legislation.

Ms. Malone mentioned the NALLOA NEWS newsletter contained in the agenda materials.

Other Business

Chair Dietrich discussed attending the July NALLOA meeting and conference in Texas. He would like for a board member and the Executive Director to attend.

Ms. Malone advised the board that attendance to the conference and meeting would depend on the budget and require approval by the department.

There being no further business, Ms. Hill moved to adjourn the meeting. Ms. Elms seconded the motion and the passed unanimously. The meeting adjourned at approximately 1:27 p.m.

JM/kw