Minutes

CALL TO ORDER
Mr. Moecker, Chair, called the meeting to order at 9:15am. Mr. Moecker asked everyone to stand and recite the pledge of allegiance and Mr. Dietrich will lead in a prayer and a moment of silence for Pat Thomas D’Angelo a board member that passed away. There was a roll call and a quorum was established.

BOARD MEMBERS PRESENT
Michael Moecker, Chair
Fred Dietrich
Billy Wayne Collins (excused absent)

STAFF PRESENT
Anthony Spivey, Executive Director
Pam Sewell, Board Staff
LeChea Parson, Prosecuting Attorney
Charlyne “Khai” Patterson, Assistant Attorney General

OTHERS PRESENT
Edward
William
Daisy Amador, Court Reporter Apex Reporting Group
Gayle Dietrich, Fred Dietrich and Association
Ronald Ray Kool
Dion Abadi
Bruce C. Scott
Velma P Morgan
Elnora Parson

Review and Approval of Meeting Minutes and Ratification:

Minutes from September 23, 2010
Motion: Mr. Dietrich moved to approve the minutes.
Motion: Michael Moecher seconded the motion and it was passed unanimously.
Minutes from March 11, 2011

Motion: Mr. Dietrich moved to approve the minutes.

Motion: Mr. Moecher second the motion with a question on page 34 line item 333 has a question marked, where is the list concerning the claim on recovery?

Ms. Patterson: there was not a list but the attorney’s did get together and discussed it.

Mr. Moecher: also on page 32 line of 237 at the end it should say article or lot, and on Page 37 he didn’t take, he reviewed the test.

Ratification list of Licensees:

Mr. Spivey: presented the application list for ratification starting on page 40.

<table>
<thead>
<tr>
<th>License #</th>
<th>Applicant’s Name</th>
<th>State</th>
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<tbody>
<tr>
<td>4801</td>
<td>415 CUESTA, ABRAM</td>
<td>FL</td>
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<tr>
<td><strong>LICENSE AUCTIONEER APPRENTICE</strong></td>
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<tr>
<td>4802</td>
<td>4225 ZOLLINHOFER, JOSHUA BLAINE</td>
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<td>4802</td>
<td>4222 EHMER, RICHARD A</td>
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<tr>
<td>4802</td>
<td>4215 PRUITT, JAMES RUSSELL JR</td>
<td>AL</td>
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**AUCTIONEER LICENSED BY EXAM**
Motion: Mr. Dietrich moved to approve the application list as presented.
Motion: Mr. Moecker seconded the motion and it was passed unanimously.

INTRODUCTREY COMMENTS FOR THE RECORD:

Charlyne “Khai” Patterson, Assistant with the Attorney Generals office and also board counsel for the board of Auctioneers.
Ms. Patterson: request to direct all questions regarding the facts of the case, reasons for the department’s recommendations be directed to LeChea Parson, Prosecuting Attorney to her pertaining to the Authority, Duties, and the Practices Act. Ms. Parson could please state for the record the correspondence provided for this meeting.

Ms. Parson: the board members were provided with a copy of the investigative file pleadings in the matter and any correspondence received in the case.

Mrs. Patterson: board member could you please respond did you receive all the materials regarding today’s meeting.

Mr. Dietrich Yes.
Mr. Moecker: Yes.

Mrs. Patterson: did you review all the materials before the meeting?

Mr. Dietrich: I reviewed the cases.

Mr. Moecker: Yes

Mrs. Patterson: Were there any problems or missing document that we should take-up at this time?

Mr. Moecker: No

Mr. Dietrich: I contacted you (Mrs. Patterson) in regards to the legal proceedings. No problems with documents received.

Mrs. Patterson: is there any fact or reasons that may disqualify you are make it improper to deliberate on any of the cases before you?

Mr. Dietrich: No

Mr. Moecker: No

Mrs. Patterson: asks the court report if anyone request a copy that she includes her statements. Mrs. Patterson turns the floor over to Mrs. LeChea Parson.

**DISCIPLINARY CASES**

**Motion for Waiver of Rights and Final Order**

**Lincoln W. Briscoe**

**Case Number 2010-035540**

Ms. Parson: on page 44 case number 2010-035540 Lincoln Briscoe license number AU2044 the department filed an administrative complaint on December 13, 2010 respondent was served with the complaint by publication after attempts of mailing and phone attempts failed.

A notice of action was published in the local newspaper on page 54.

Mr. Briscoe was charged with violating 468.389(1)(j) failing to comply with a final order on April 29, 2010 case number 2009037221 which can be seen on page 89 Mr. Briscoe has failed to pay a fine in the amount of one thousand dollars (1,000) and the cost of the investigation. Mr. Briscoe also has a citation that he has failed to pay.

Mrs. Patterson: asked that a correction be made on page 47 the board title is in-correct.
Ms. Parson: there is an error with the incorrect board I move that this board be the board of Auctioneers.

Mr. Moecker: asks if this would be added to the order and should it be added to the minutes?

Mrs. Patterson: Yes it will be added to the order.

Ms. Parson: Respondent failed to timely elect a formal hearing within 21 days of notice of Agency Action as required by Rule 28-106.111(2), Florida Administrative Code. By failing to request a hearing within 21 days respondent waived his rights to request a hearing to contest the factual allegations as alleged in the Administrative Complaint.

Ms. Parson: requested that the chair entertain a motion finding that the respondent was properly served and waived the right to a formal hearing.

Motion: Mr. Moecker so moved.
Second: Mr. Dietrich

Mr. Moecker: stated that there are only two board members here and you need a positive vote so I’m going to move on all of the motions that way we can keep it going.

Motion: Mr. Moecker all in favor signify by saying I
Second: Mr. Dietrich I

Mr. Moecker: motions carried

Ms. Parson: stated that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the administrative complaint as those of the board.

Motion: Mr. Dietrich so moved
Second: Mr. Moecker motion cares.

Ms. Parson: stated that the department recommendation is a fine in the amount of $1,000 and cost of $292.29 and revocation of license.

Motion: Mr. Moecker so moved
Second: Mr. Dietrich I, motion carried unanimously

Mr. Moecker: there has been no contact with this person and his license has not been renewed?
Ms. Parson: I have had no contact with him and he did not renew on the last renewal cycle.

Mr. Moecker: is there any discussion on the fine or cost?

Motion: Mr. Dietrich I

Second: Mr. Moecker I, motion carried unanimously.

Mr. Moecker: was there an AB license with this? And can that be check and make sure there is no AB license.

Ms. Parson: that would be a separate action would have to be taken.

Mr. Moecker: I would just like to know for the board.

Motion for Waiver of Rights and Final Order
John Caballero and John Caballero Auctions
Case Numbers 2009-060894 and 2009-060925

Ms. Parson: presented case #2009-060894 and 2009-060925 John Caballero and John Caballero Auctions license number AU3758 and AB2700 The department filed an administrative complaint against the respondent on March 29, 2011 charging respondent’s, John Caballero and John Caballero Auctions, respondent was served with the complaint on March 31, 2011 via U.S. Certified Mail as seen on page 112.

Mr. Moecker: are we taking items two and three together?

Ms. Parson: yes items two and three are the 894 and the 925 case they have the same materials but two separate case files they are back to back of the same thing.

Mr. Moecker: do we have to rule on both cases?

Ms. Parson: these two cases can be ruled on at the same time.

Ms. Parson: the administrative complaint charge Florida Statute 468.389(1)(j) through a violation of Section 468.388(10) failure to keep money in an escrow account and provide records when requested. In September, 2009, respondents contracted with complaint to auction merchandise over a period of several weeks’ complaint said she did not receive prompt payment of her sold merchandise. The department requested information regarding sales dates and items sold to determine prompt payment and records showing money was being held in an escrow account and respondent failed to provide information when requested and in the laws and Mr. Caballero fail to do so. Respondent by failing to request a hearing within 21 days respondent waived his rights to request a hearing to contest the factual allegations as alleged in the Administrative Complaint.
Ms. Parson: requested that the chair entertain a motion that the respondent failed to respond timely and that the respondent waived the right to a hearing disputing the material facts.

Motion: Mr. Moecker so moved

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

Ms. Parson: stated that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the administrative complaint as those of the board.

Motion: Mr. Moecker so moved

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

Ms. Parson: stated that the department recommendation is fine of $1,000 and cost of $216. 55 and because license was already revoked there is no license action at this time.

Motion: Mr. Moecker so moved

Second: Mr. Dietrich second motion and it passed unanimously.

**Motion for Waiver of Rights and Final Order**

**Dean V. Kruse and Kruse International**

**Case Numbers 2010-039326 and 2010-039315**

Ms. Parson: Page 257 presented cases 2010-039326 and 2010-039315 Dean Kruse and Kruse International license numbers AU386 and AB202 the department filed an administrative complaint on February 1, 2011 on page 262. Respondent was served with the administrative complaint on February 10, 2011 and proof of service is include on page 271 the complaint charged respondent with (2) counts of violating 468.389(1)(c ) failure to pay in a reasonable time and (2) counts of violating 468.389(1)(e) transaction which demonstrates bad faith or dishonesty and (1) count of violation 468.389(1)(k) a license disciplined by another state. In June, 2010 the Indiana Auctioneer Commission revoked the auction business license and suspended the personal license of Mr. Kruse for a period of 24 months. In April, 2009 Respondent contracted with Mr. Peacock to auction off property at this auction approximately $100,000.00 dollars in addition the respondent sold a Coach Motor home at the auction in the amount of $150,000.00 dollars, Respondents failed to pay any of the auction proceeds including the proceeds for the motor home there for Mr. Peacock did not deliver the motor home to the buyers because he never received the funds from the motor home. A civil law suit was filed against Mr. Peacock the owner by the buyers of the motor. This is where the failure to pay counts arise conduct in connection with a sales transaction which accepting of payment but not remitting the payment to the owner. Respondent waived his rights to request a hearing to
contest the factual allegations as alleged in the administrative complaint Mr. Kruse did submit a letter when the investigation started in February, 2011; pages 286 and 287. Mr. Moecker stated that the letters Mr. Kruse submitted where not resent.

Ms. Parson: stated that Mr. Kruse was having some health problems and could not make it to attend meeting

Ms. Parson: Respondent by failing to request a hearing within 21 days, respondent waived his rights to request a hearing to contest the factual allegations as alleged in the Administrative Complaint.

Ms. Parson: requested that the chair entertain a motion that the respondent failed to respond timely and that the respondent waived the right to a hearing disputing the material facts.

Motion: Mr. Moecker so moved

Second: Mr. Dietrich seconded the motion

Ms. Parson: stated that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the administrative complaint as those of the board.

Motion: Mr. Moecker so moved

Second: Mr. Dietrich seconded the motion

Ms. Parson: stated that the department recommendation since there are (5) counts in this complaint my recommendation is a fine in the amount of $5,000 dollars and cost of $366.55 and because license was already revoked both licenses there is no license action at this time.

Motion: Mr. Moecker so moved

Second: Mr. Dietrich seconded the motion

Mr. Moecker: discussion, did we fine Kruse before?

Ms. Parson: Yes

Mr. Moecker: question didn’t we fine Kruse before? What was the amount of that fine?

Ms. Parson: I do not recall it wasn’t this much because there was not this many counts.

Ms. Parson: I think it was $2,000 there was 2 counts.
Mr. Moecker: what are we going to do in trying to collect the money?

Ms. Parson: after the account has been delinquent the account would be sent to a collections agency.

Mr. Moecker: We meaning the board of auctioneers or DBPR or the State of Florida does not get a judgment against Mr. Kruse.

Ms. Parson: the order is the judgment.

Mr. Moecker: so we don’t have to go to court to get a judgment?

Ms. Parson: No

Mr. Spivey: when time lapse we would then turn it over to the collections agency within the department the collections attorney would pursue the collection.

Mr. Moecker: would we able to do anything with the judgments in Indiana?

Mrs. Patterson: I would have to check into it but if it’s going into collections then it wouldn’t matter where he is located. Mr. Chairman considering there is also a recovery form clam outstanding to this case you may want to discuss restitution with this case.

Mr. Moecker: so we would add that to the fine?

Mrs. Patterson: Yes and that would be another process.

Mr. Moecker: can I amend the motion you have made for the $5,000.00 dollars and also the cost to include restitution.

Ms. Parson: you can make the restitution for the amount owed.

Mr. Moecker: Motion to include the full amount owned in the judgment.

Motion: Mr. Moecker
Second: Mr. Dietrich

Mrs. Patterson: request a motion to process Mr. Peacock recovery fund claim since you have already reviewed and made that determination so he can start his process so he will not have to come back in September to start all over again.

Mr. Moecker: is that on the agenda?

Mrs. Patterson: it is not on the agenda.

Motion: Mr. Dietrich moves to approve
Second: Moecker move to approve motion passed unanimously.

Informal Hearing
Dion Abadi d/b/a D & G Auctioneers, LLC
Case Number 2009-062890

Ms. Parson: Page 393 presented cases 2009-062890 Dion Abadi

The respondent was present and sworn in by the court reporter (Daisy Amador) Apex Reporting Group.

Mr. Spivey: Please state your name for the record.

My name is Dion Abadi

Ms. Parson: the department filed an administrative complaint on November 16, 2010 charging Mr. Abadi with violation section 455.227(1)(c) being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.

In September, 2008 Mr. Abadi entered into a several contracts with Edward D. Maslanka for the auction of property belonging to Maslanka’s company, We Bronze Wholesale, LLC. On September 16, 2008 Mr. Abadi issued a check to Mr. Maslanka for $21,269.00 the check was returned insufficient funds. In January 2010, the respondent plead nolo contendere in Broward County, Florida to one count of a violation of Section 832.05(2)(a), Florida Statutes (Issuance of a worthless check). Mr. Abadi requested a formal hearing and then submitted an amended election of rights form requesting an informal hearing.

Mr. Moecker: what page is the check on?

Mrs. Patterson: page 397

Ms. Parson: and on page 485 you can see the charged documents and more detail information on the case that goes over to page 492.

Mr. Moecker: Ms.Parson is a stop payment the same as insufficient funds?

Ms. Parson: it is in the eyes of the criminal courts because they pursued the case on this stop payment check. And again the charge here is pleaded of no contest to the crime related to the board of auctioneers.

Mr. Moecker: The license is current?

Ms. Parson: Yes AU2762
Ms. Parson: stated that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the administrative complaint as those of the board.

Motion: Mr. Moecker I

Second: Mr. Dietrich I

Mrs. Patterson: There are two Election of Rights forms one was received on December 15, 2010 marked that Mr. Abadi dispute the allegations of material fact we have a second one that was received on December 28, 2010 the respondent checked option (2) I do not dispute the allegations Mrs. Patterson ask Mr. Abadi to confirm that he is here for an informal hearing.

Mr. Abadi: Yes. It was not an insufficient funds check it was a stop payment and I can prove I had the money in my account at the time it was just a misunderstanding.

Mrs. Parson: did you plea nolo contender to the charge?

Mr. Abadi: stated that his attorney advised him he needed to plea nolo contender to the charge.

Mr. Moecker: is there any chance we are allowed to listen to his side of the story? To the facts.

Mrs. Patterson: he is not disputing that he actually plead and that he either had a conviction or adjudication withheld I don’t recall which on the record and that is what his violation is for you are going to determine base on his plea of non contest whether or not its sufficient not to create a violation in this case. So he is just trying to prove to you that he pleaded nolo contender as a plea of convenience not necessarily that he did the act. Then it can be determined if he violated your practice act.

Mr. Moecker: question Mr. Abadi if the gentle men that was with him if they were here for testimony or just here for moral support?

Mr. Abadi: stated that they were here for testimony if needed.

Mr. Moecker: request that they be sworn in by the court reporter (Daisy Amador) Apex Reporting Group.

Mr. Spivey: before we start can I get you to state your names for the record?

William Alibu and Edward Maslanka.
Mr. Moecker: where are we with Mr. Abadi testimony, are we done with what you want to say? In reading the file you have settled this dispute.

Mr. Abadi Yes.

Mr. Moecker Ask the gentlemen with Mr. Abadi if they had anything to say for support?

Mr. Maslanka: stated he had been doing business with Mr. Abadi over a year this is the first incident we have had I believe it was a miss understanding the check was to be held and the Secretary comes in twice a week and deposited the check

Ms. Parson: when you filed this complaint in October, 2008 this incident had not been resolved at that time?

Mr. Maslanka: there was a dispute in the amount after the complaint was filed it was all settled.

Ms. Parson: Before the court date but after the complaint was filed?

Mr. Maslanka: Correct, we had to go in front of the Judge but we told him everything had been resolved.

Mr. Moecker: once the State Attorney’s office filed the complaint on your behalf there was no stopping it. You made restitution.

Mr. Maslanka: stated he went on medical leave for six months.

Mr. Moecker: stated to let the matter drop but was not sure if that could be done, Mr. Moecker request to hear what Mr. Dietrich had to say.

Mr. Dietrich: do we have an AB license for D & G Auctioneers, LLC

Ms. Parson: Yes they do have a license the business was not charged with the check he was charged with passing the check and that is why there is no AB license listed.

Mr. Dietrich: cost of $290.61 Mr. Chairman if I’m in order I move that we charge Mr. Abadi with the cost and no fines in this matter.

Mrs. Patterson: does that mean you are finding that a violation of your practice act? You will have to file a violation before you can charge him with the cost.

Mr. Moecker: so therefore for a fine would not be appropriate.

Mrs. Patterson: a fine or a cost would not be appropriate.
Mr. Moecker: could you tell us how we can get to where we are right now to accessing a cost for the investigation because clearly that could have been stopped had the withdraw the complaint.

Mrs. Patterson: even if they had called and withdrew the complaint the department still has the right to investigate that complaint and if you look at the letter on page 506 it is basically the same story he told you here. I would check 455 but typically you have to fine a violation in order to apply cost.

Mr. Moecker: I’m asking the prosecutor how we get to pay the cost and be done with it.

Mrs. Patterson: first thing you would need to do is find the facts as alleged in the case have constitute a violation of your practice act. So you would need to do a motion on that first.

Motion: Mr. Moecker

Second: Mr. Dietrich

Mr. Moecker: now motion regarding mitigating circumstances

Mrs. Patterson: mitigating circumstances would be under 61G2-7.030 (2)(a)(b)(g)(j) all would be mitigating circumstances also subsection (p) any other relevant mitigating or aggravating factors under the circumstances.

Mr. Moecker: we have motion on the floor by Mr. Dietrich to set cost in this case of $290.61 and no other action on this licensee.

Motion: Mr. Dietrich

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

Informal Hearing
Ronald Ray Kool Sr. d/b/a A Plus Auction
Case Number 2010-038146

Mrs. Parson: Page 529

Mr. Moecker: Is Mr. Kool in the audience? Mr. Moecker asks that they be sworn in by the court reporter.

Mr. Spivey: Please state your names for the record.

Ronald Kool Jr.
Mr. Kool Sr.
Ms. Parson: this case is against license number AU510 the department filed an administrative complaint on January 18, 2011 charging 468.389(1)(c) and 468.389(1)(g) and 468.388 (4) operating a auctioneer business with a null and void license.

In June, 2010 respondent entered into an auction agreement to sell property for Mr. Novelliere the proceeds at the auction totaled approximately $1,400.00 the auction was conducted under A Plus Auctions, license number AB71 which license went null and void November.

A Plus Auctions went null and-void in November, 2009 this auction was in June, 2010 Mr. Kool requested an informal hearing and also submitted a letter (page 530 and 531 of the agenda).

Ms. Parson: stated that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the administrative complaint as those of the board.

Motion: Mr. Moecker so moved

Second: Mr. Dietrich

Mr. Moecker: motion carried and it passed unanimously.

Mrs. Parson: Mr. Kool now is the time to address the board they have the letter that you submitted on February 3rd.

Mr. Kool: I have stated in the letter exactly what happen and I was unaware I did not have a license I have been a licensed auctioneer since 1987. I was contacted about two large warehouses full of merchandise he had to sale the he could no longer pay the rent. We advertised in the local newspaper and on AuctonZip, and also used signs on auction day. I brought my staff to the warehouse on the day of the auction to unload and sort the items. During the auction Mr. Novelliere continuously stopped me from selling any bulk items as he was not happy with the prices. By interfering, Mr. Novelliere breached the contract agreement and stopped the sale we put everything back into the warehouse. Mr. Kool stated that by having to move everything back into the warehouse there was no money left, we have letters from people that was at the auction.

Mrs. Parson: on pages 533 – 535 of the agenda are the letters that Mr. Kool is referring to.

Mr. Kool Sr.: as for my license my wife was paying all the bills I had just gotten out of the hospital from having a heart attack. I ask my wife about the license and she told me she had paid it, the second one came in for the business and she did not know there were two licensees. I did not know about it until I got a letter from the board I called and spoke with someone I didn’t get a name but was told we could reinstate the license if I paid the fine so I sent a check for six hundred and something so I sent the check after three months I called about my license and was told my license was being investigated I told them I needed my license I didn’t get the license so I called back and was told I had to start all over again and file a new application.
Mr. Kool Jr.: My stepmom didn’t know, she thought that the license was one in the same. As for the auction Mr. Novelliere stopped the sale and breached the contract agreement. After all was said and done after expenses there was nothing left.

Mrs. Parson The copy of the contract is located on page 532

Mr. Kool Jr., after the paper work I sent him a letter saying here is the accounting on the sale and if he wanted to go forward we could or we can just call it even please respond within ten days and we didn’t hear anything back from he until we heard from you we assumed the sale was over and done with.

Mrs. Parson You can see the settlement on page 558 showing $371.01 over expenses. Mr. Novelliere was never received any payment.

Mr. Kool Jr.: No

Mr. Moecker: I not see where you all did anything wrong except find a bad customer and that happens in the auction business I think that the other gentleman should have been here to testify.

Ms. Parson: We don’t notify complaints of hearings this is not a fact finding hearing that would be the only way we would have notified Mr. Novelliere.

Mr. Dietrich: question AB license has been taken care of?

Mr. Kool Jr.: yes we got a new license.

Mr. Dietrich: you did have a contract and the seller did interfere with the auction and this was an absolute auction.

Mr. Moecker: I would like to move this forward and ask what we need to do to get or agreement on the record.

Ms. Parson: you have the option to dismiss the complaint at this point.

Motion: Mr. Moecker moved to dismiss complaint

Second: Mr. Dietrich seconded the motion

Mr. Moecker: ask if her were any discussion? Motion carried respondent dismissed.

**Informal Hearing**

Bruce C. Scott Auctions & Real Estate Sales and Bruce C. Scott
Case number 2010-051148

Mr. Moecker: asks that Mr. Scott be sworn in.
Ms. Parson: What I handed out to you that says item #7 on the top of that complaint is what goes in this file, the one that is in the agenda is incorrect please disregard page 605 thought 609 because that goes with another case.

Mr. Spivey: Please state your name for the record.

Bruce C. Scott

Mrs. Parson: Item 7 starting on page 572 Case number 2010-051148 license number AB157 the complaint was filed on February 14, 2011 charging Florida Statute 468.389(1)(c ) failure to account for or to pay within a reasonable time.
In July, 2010 respondent contracted with Nancy Hawkins to auction merchandise from residents the auction sales totaled approximately $5,776.50 which respondent was to keep 15% and 25% commission depending on the type of item sold respondent failed to pay the complainant the remaining of $4,349.72 in proceeds.
Mr. Scott elected to his election of rights form to have a hearing not involving disputed issues of material facts therefore it is appropriate at this time for the chair to entertain a motion that the fact in this complaint as those of the board.

Motion: Mr. Moecker move

Second: Mr. Dietrich

Motion carries

Mrs. Patterson: can we get a motion to adopted investigative file into evidence?

Motion: Mr. Moecker so moved

Second: Mr. Dietrich

Motion carries

Ms. Parson: Mr. Scott do you have any mitigation?

Mr. Scott: I do not deny that I owe Ms. Hawkins for the proceeds from the sale and have every intention of having it settled as soon as possible. In relocating my office I received notice about a judgment from R.H. Donelly which was told it was in reference to a yellow page advertising which they put my fax number in place of my business number and I refuse to pay them. Because I was moving the office there was problems with getting the mail my paper work was being mailed to the old address reference to the other cases it has affected six consignments five consigners. I did not have any reserves on hand when my escrow account was wrongly garnished by R.H. Donelly which took me awhile to get removed, however when that was cleared the Florida Dept. of Revenue garnished the same account as soon as the first garnishment was removed, which caused a snowball effect for this auction. I have paid off three of the consignments and part of Mr. Goldman. I have not gotten anything to Ms. Hawkins at this time.
Mr. Moecker: how much money do you owe the State of Florida?

Mr. Scott: I owe the state of Florida about 17,000.00.

Mr. Moecker: how much do you owe Mr. Hawkins?

Ms. Parson: $4,349.72

Mr. Scott: yes plus the other two complaints.

Mr. Dietrich: do you have any documentation from the bank?

Mr. Scott: yes. I can get it from my attorney.

Mr. Dietrich: do you have it today?

Mr. Scott: no, sir I don’t not with me today.

Mr. Dietrich: what is important is paying consigners within 30 days. You should have had evidence from the bank showing what happened.

Mr. Moecker: when you conduct an auction do you always escrow the money?

Mr. Scott: yes

Mrs. Patterson motion that the alleged the facts as alleged in the case have constitute a violation of your practice act.

Motion: Mr. Moecker

Second: Mr. Dietrich

Ms. Parson: stated that recover cost order restitution for Ms. Hawkins.

Mr.Moecker: item #7 case number 2010-051148 make a motion to access the cost and a fine of $100.00 restitution be paid first and be paid within 90 days the 90 day would start the date of the final order.

Motion: Mr. Moecker

Second: Mr. Dietrich

Informal Hearing

Bruce C. Scott d/b/a Bruce C. Scott Auctions & Real Estate Sales
Case number 2010-051130

Ms. Parson: item 8 this complaint against Mr. Scott auctioneer license AU415 this case is the same as case number 2010-051148 except this case is against the business license.
Mrs. Patterson: fact case number 2010-051148 is the same case, except this case is against the auctioneer and case 2010-051148 is against the business license AU415 is this correct.

Ms. Parson: stated yes and that the department believes that it is appropriate for the chair to entertain a motion adopting the findings of fact and conclusions of law contained in the complaint as those of the board.

Motion: Mr. Moecker

Second: Mr. Dietrich

Mrs. Parson the cost in this investigation is $225.94 the restitution does not need to be a duplicate but it does need to be on the record for this case but we need to put it in this order also.

Mr. Moecker: so we are looking for a cost recovery here of $225.94 plus fine of $100.00 and the time line would be the same as case number 2010-051148 which would start after restitution has been paid.

Motion: Mr. Moecker

Second: Mr. Dietrich

**Informal Hearing**

**Bruce C. Scott d/b/a Bruce C. Scott Auctions & Real Estate Sales**  
**Case number 2010-051966 and 2010-051961**

Mrs. Parson: Item 9 page 778 complaints are against AU415 and AB157 complaint was filed on February 14, 2011 charging 468.389(1)(c ) failure to pay within a reasonable time. In July, 2010 the respondent contracted with Mr. Goldman to auction merchandise the auction was held in August, 2010 the total sales was $8,852.50 respondent was entitled to 15% in commission. Respondent did not pay Mr. Goldman $7,524.24 of proceeds.

Mr. Scott: stated that he had sent Mr. Goldman a $1,600.00 payment as shown on page 835.

Mrs. Patterson: was this to reduce the $7,524.24 do you have proof of the $1,600.00 money orders in on page 835.

Mr. Moecker: the facts are the same as the other two cases so we need a motion to accepting the facts and the conclusions of law.

Motion: Mr. Moecker
Second: Mr. Dietrich

Ms. Parson: so the cost in these cases is $440.16 and restitution amount is $6,578.52 to be paid to Mr. Goldman. The motion will be payment of restitution within six months a fine of $200.00 one hundred dollar per license and cost of $440.16 payable thirty days for each case after restitution has been paid.

Motion: Mr. Moecker

Second: Mr. Dietrich

Mr. Dietrich: I would like to amend that motion to include the words that we request that he provide documentation to the board office from the bank explaining what happen to the escrow account.

Mr. Moecker: also requests that evidence/proof that the complainants have been paid in full.

Motion: Mr. Dietrich

Second: Mr. Moecker

Reports

Prosecuting Attorney
Mrs. Parson: Case Load Status we have two cases out for supplemental investigation and one case supplemental received
Two cases in status 147 pending formal hearing,
Eight cases in status 36 administrative complaint filed,
Two cases status 42 Ready for Default,
One case status 52 Pending board date,
Eleven cases status 55 Set for board presentation.

Board Counsel

Recovery Fund Claim – John P. Caballero

Mr. Moecker: recovery fund claim and have attorney for the trustee.

Ms. Doreen Abbott, Chapter 7 Trustee
August, 2009 demand letter to David Powell, attorney for the auctioneer, requesting turnover of auction proceeds totaling $204,813.16 and personal property that was not sold. November, 2009 a motion to compel turnover of bankruptcy estate assets and for sanctions on behalf of Chapter 7 trustee in the bankruptcy case of Capt, LLC.
November, 2009 our firm filed an amended motion to compel turnover of bankruptcy estate assets and for sanctions to add allegations regarding personal property of Capt, LLC that was not sold at the auction. December, 2009 bankruptcy court entered an order granting amended motion to compel turnover of bankruptcy estate assets and for sanctions which required, among other things that auctioneer turnover the auction proceeds, and unsold personal property concerning the auction by December 11, 2009. December 11, 2009 Auctioneer’s attorney sends auction related documents and a check post-dated for December 15, 2009 in the amount of $130,000.00

On January 20, 2010 auctioneer’s attorney requesting turnover of remaining auction proceeds and unsold personal property. February 11, 2010 our firm sends a demand letter (including a demand for damages under Florida Statute 772.11) requesting turnover of remaining auction proceeds and unsold personal property. June, 2010 auctioneer and attorney continue to ignore demand letter sent in February, 2010 and other correspondence. Our firm files an adversary complaint against the auctioneer and his affiliated persons and entities on behalf of the Chapter 7 Trustee in the bankruptcy case of Capt, LLC.

On August 24, 2010 motion for default judgment in the adversary proceeding. August 30, 2010 bankruptcy court entered final judgment against the defendants in the adversary proceeding.

September 13, 2010 Auctioneer Recovery Fund Claim sent to Florida Department of Business and Professional Regulation c/o Florida Auctioneer Recovery Fund Claims processing unit.

Mrs. Patterson: motion to disperse the recovery fund amount of $50,000.00 in this claim in the total amount of $98,000.00

Motion: Mr. Moecker

Second: Mr. Dietrich

Mr. Moecker: I would also like to add to that motion if recovery is made that the recovery fund be refunded.

Motion: Mr. Moecker

Second: Mr. Dietrich

Motion carried unanimously

Mrs. Patterson: Recovery Fund claim on Mr. Kool that case was dismissed the charges finding there was no violation but the complainant in this matter was able to get a judgment against Mr. Kool for the dollar amount which was outstanding of $1,243.75 Giving the fact that the statute requires that you find a violation of the practice act there is an order of judgment then this can be denied.

Motion: Mr. Moecker so moved
Second: Mr. Dietrich seconded the motion and it passed unanimously.

**Application to Reinstate Null and Void License-Dewey Mars**

Mr. Dietrich: is there any discipline on file for Mr. Mars?

Mr. Spivey: on page 8 Mr. Mars gives explanation.

Motion: Mr. Dietrich move to reinstate license.

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

**Application for Initial License as Auctioneer-Jason Borden**

Mr. Spivey: this application has criminal background description of crime is on page 18 of the addendum.

Motion: Mr. Moecker I don’t see any reason we should give him a license.

Second: Mr. Dietrich

Mrs. Patterson: can we have a basis for the denial?

Mr. Moecker: criminal record

Mr. Dietrich: the description is lacking information.

Mrs. Patterson: date of offense 03/04/2009, And the fact that this theft could be directly related to the Auctioneer practice as people are in trusted.

Motion: Mr. Moecker to deny the license.

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

**Board Chair**

Mr. Moecker: I have nothing to report.

**Executive Director’s Report**

**Quarterly Financial Statements (March 31, 2011)**

Mr. Spivey: on page 1117 is quarterly financial statement ending March 31, 2011.

On page 1122 Unlicensed Activity Account ending March 31, 2011

On page 1126 Recovery Found Account ending March 31, 2011
Old Business

Mr. Dietrich: I move that we request to attend that annual Auctioneers Association meeting which this year will be held in State.

Mr. Spivey: stated that he has spoken with Tim Vaccaro and has not heard anything at this time.

Mr. Moecker: seconded the request motion was unanimously.

New Business

Mr. Moecker: I would like Mr. Fisher thoughts on Auctioneers having a Bond instead of having the recovery fund.

Mr. Fisher: is very much in agreement with the Bond.

Proposed Meeting Dates – Fiscal Year 2011-2012

Meeting was reset for September 30, 2011

Motion: Mr. Moecker
Second: Mr. Dietrich

Meeting set location St. Augustine.

December 9, 2011 - Tallahassee
March 16, 2011 - Orlando
June 15, 2012 - South Florida

Adjournment 12:20pm

Motion: Mr. Moecker
Second: Mr. Dietrich