

**MEETING OF
THE FLORIDA BOARD OF AUCTIONEERS**
The Department of Business and Professional Regulation
Department of Business and Professional Regulation
1940 North Monroe St.
Tallahassee, Florida 32399
Friday December 10, 2010 @ 9:00am est.

CALL TO ORDER

Mr. Moecker, Chair, called the meeting to order at 9:05am. Mr. Moecker asked everyone to stand and recite the Pledge of Allegiance and Mr. Dietrich gave the invocation. There was a roll call and a quorum was established.

BOARD MEMBERS PRESENT

Michael Moecker, Chair
Billy Wayne Collins
Pat Thomas D'Angelo
H. Fred Dietrich, III

STAFF PRESENT

Anthony Spivey, Executive Director
Terri McEwen, Government Analyst II
LeChea Parson, Prosecuting Attorney
Charlyne "Khai" Patterson, Assistant Attorney General
Renese Jones, Government Analyst I
Pam Sewell, Operations Analyst II
Paul Bartolo, Senior Consumer Service Analyst
Alex Bosque, Examination Development Supervisor
Fanny Fuentes, Examination Development Specialist

OTHERS PRESENT

William Furlow, Counsel for Scott Peterson and Heritage Numismatic Auctions, Inc
Jimmy Tipton, Auctioneer
Betty Evans, Auctioneer
Joseph Able, Auctioneer
Gayle Dietrich

Opening Remarks: Each individual should state their first and last name before speaking.

APPLICATIONS

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

LICENSURE BY AUCTIONEER APPRENTICE

4801	AE	414	WELLS, WILLIAM MATTHEW	DUBUQUE	IA
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LICENSURE BY AUCTIONEER

4802	AU	4170	BOWES, JOHN MICHAEL	PALMETTO	FL
4802	AU	4168	HUNT, NEIL J	MIAMI	FL
4802	AU	4175	IVANSEK, TED PHILLIP	ARCADIA	FL
4802	AU	4166	KRATZER, DAVID III	BOCA RATON	FL
4802	AU	4154	MEYER, WAYNE R	TEQUESTA	FL
4802	AU	4155	MIRANDA, CARLOS DANIEL	PANAMA CITY	FL
4802	AU	4172	MONAGHAN, MICHAEL P	STARKE	FL
4802	AU	4156	SMITH, TYLER E	DANIA BEACH	FL
4802	AU	4159	WORTHAM, URSULA CONTESSA ROSALIE RENEE	TAMPA	FL
4802	AU	4174	BLUMBERG, COLIN	WOODLAND HILLS	CA
4802	AU	4173	COTTLE, HENRY BEEMAN	MONTROSE	GA
4802	AU	4162	GUILFORD, NATHAN M	DALLAS	TX
4802	AU	4171	KIRK, STACY MARIE	CHARLOTTE	NC
4802	AU	4176	NEELY, BRANDON RAY	SOUTH SIDE	AL
4802	AU	4163	PFISTER, TIMOTHY A	ROLLING MEADOWS	IL
4802	AU	4167	ROSA, CHRISTOPHER PAUL	WOODSTOCK	GA
4802	AU	4157	ROSE, BETH A	MAUMEE	OH
4802	AU	4158	SIMPSON, JONATHAN HERBERT	TROUTMAN	NC
4802	AU	4177	TAYLOR, ERNEST EUGENE JR	FLETCHER	NC
4802	AU	4169	VICARI, PETER G	MARRERO	LA
4802	AU	4164	WORLEY, PENNY L	MAINEVILLE	OH
4802	AU	4161	GREEN, MATTHEW P	BOCA RATON	FL
4802	AU	4160	NORRIS, WILLIAM MICHAEL	LAKE WORTH	FL

LICENSURE BY AUCTIONEER BUSINESS

4803	AB	2993	A&O'S AUCTIONS & LIQUIDATORS	LAKELAND	FL
4803	AB	2985	ABINGDON AUCTIONS LLC	TAVARES	FL
4803	AB	2982	AMERICAN WHOLESALE JEWELRY INC	VAN NUYS	CA
4803	AB	2996	AUCTION HOUSE COLLECTABLES LLC	TAMPA	FL
4803	AB	2979	BARGAINS FOR BIDDERS	THONOTOSASSA	FL
4803	AB	2994	BIG TOP AUCTIONS, INC.	BELLEAIR BLUFFS	FL
4803	AB	2983	CASTAWAY AUCTIONS LLC	LAKELAND	FL
4803	AB	2990	CITIGOLD AUCTIONS OF SOUTH FLORIDA INC	WEST PALM BEACH	FL
4803	AB	2984	ELITE ESTATE BUYERS INC	BOYNTON BEACH	FL

4803	AB	2986	FAZZ, INC.	SEFFNER	FL
4803	AB	2989	FRANKIE Z'S	BRADENTON	FL
4803	AB	2992	HAMMER AND BLOCK LLC	MIAMI	FL
4803	AB	2987	HAMPTON HECHT LLC	POMPANO BEACH	FL
4803	AB	2981	HOLLYWOOD COIN & JEWELRY CO.	DANIA BEACH	FL
4803	AB	2998	INTERNATIONAL AUCTIONS TV INC.	SAINT PETERSBURG	FL
4803	AB	2977	LENDERS AND BANKS LLC	LEESBURG	FL
4803	AB	2980	MANHEIM IMPERIAL FLORIDA	LAKELAND	FL
4803	AB	2991	PERSONIFIED CONCEPTS LLC	STARKE	FL
4803	AB	2976	RANDY L. FRIDKIS AUCTIONS, LLC	JUPITER	FL
4803	AB	2978	RODNEY'S AUCTION, LLC	DAVIE	FL
4803	AB	2995	SANTORO & SHIENBAUM HOLDINGS, INC.	FORT LAUDERDALE	FL
4803	AB	2988	UC SOUL CREATIONS, LLC	TEMPLE TERRACE	FL
4803	AB	2997	VICARI AUCTION COMPANY LLC	MARRERO	LA

Motion: Mr. Dietrich moved to approve the auctioneer ratification application list as presented.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

BOARD CHAIR REPORT

Mr. Moecker thanked the board staff for doing an outstanding job.

EXECUTIVE DIRECTOR'S REPORT

Mr. Spivey reviewed the financial reports ending September 30, 2010. He indicated that the *“operating account shows a balance of \$33,417. The operating account for the recovery fund shows a balance of \$508,251 and the unlicensed activity account shows a balance of \$37,251.”*

Mr. Spivey informed the members that there may be a cash sweep in the near future.

PROSECUTING ATTORNEY REPORT

CASE LOAD STATUS

Ms. Parson presented the prosecuting attorney report to the Board.

#2009-037703, Scott Peterson, AU3021

Ms. Parson presented case #2009-037703. The department filed an administrative complaint against the respondent on April 17, 2010. The respondent has been charged with the violation of Section **468.389 1 (J), F.S.** Through a violation of **468.388 (4) F.S.** *Each auction must be conducted by an auctioneer who has an active license or by an auctioneer apprentice who has an active apprentice license and who has received prior written sponsor consent from the auctioneer. Each auction must be conducted*

under the auspices of a licensed auction business. Any auctioneer or auctioneer apprentice conducting an auction, and any auction business under whose auspices such auction is held, shall be responsible for determining that any auctioneer, apprentice, or auction business with whom they are associated in conducting such auction has an active Florida auctioneer, apprentice, or auction business license.

The respondent's counsel, William Furlow, Esq. was present.

Mr. Dietrich motioned that the Board accept a settlement of \$1000 and evidence that Mr. Peterson completed an education course by a certified auctioneer school before obtaining a Florida License.

Mr. Collins seconded the motion and it passed unanimously

#2009-037386, Heritage Numismatic Auctions, Inc., AB655

Ms. Parson presented case #2009-037386. The department filed an administrative complaint against the respondent on March 3, 2010. The respondent has been charged with the violation of 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.* through a violation of **468.388(4) F.S.** *Each auction must be conducted by an auctioneer who has an active license or by an apprentice who has an active apprentice auctioneer license and who has received prior written sponsor consent. Each auction must be conducted under the auspices of a licensed auction business. Any auctioneer or apprentice auctioneer conducting an auction, and any auction business under whose auspices such auction is held, shall be responsible for determining that any auctioneer, apprentice, or auction business with whom they are associated in conducting such auction has an active Florida auctioneer, apprentice, or auction business license.* As well as for a violation of **468.389 (1)(F) F.S.** *Using or permitting the use of false bidders, cappers, or shills.*

The respondent's counsel, William Furlow, Esq. was present.

Mr. Dietrich motioned to accept the settlement proposal of \$1000 fine with the costs \$56.69 along with a reprimand on the respondent's license.

Mr. Collins seconded the motion and it passed unanimously.

The Board took a five minute recess.

The Board motioned to vote on the ratification list.

The vote carried unanimously.

Mr. Tipton appeared in front of the Board to provide the Board with an update of his auctioneering activity during the past year.

Mr. Tipton was sworn in.

Mr. Tipton updated the Board of his activities and then thanked the Board for their time and was dismissed.

#2009-000353 and 2010-004681, Anand Patel and Brandon of Wellington, LLC, OR846 and AB2751

Ms. Parson presented cases #2009-000353 and 2010-004681, Anand Patel and Brandon of Wellington, LLC, OR846 and AB2751. The department filed an administrative complaint against the respondent on May 25, 2010. The respondent has been charged with the violation of 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. and a violation of 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. through a violation of 468.388(1) F.S.*

Ms. Parson recommended that the Chair entertain a motion to recognize that pursuant to Rule 28-106.111 of the Florida Administrative code the respondents waived their rights to request a hearing.

Mr. D'Angelo motioned that the Board recognize that the respondents waived their rights to request a hearing.

Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson recommended that the Board to entertain a motion adopting the allegations of fact in conclusions of law in the complaint as those of the board.

Mr. Dietrich motioned that the Board entertain a motion adopting the allegations of fact in conclusions of law in the complaint as those of the board.

Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson recommended that the Board impose a fine of \$2000.00 at \$1000.00 per count plus costs at \$623.23 along with whatever disciplinary action the Board deems appropriate.

Mr. Dietrich motioned that the Board impose a fine of \$2000.00 at \$1000.00 per count plus costs at \$623.23 along with imposed revocation of both licenses.

Mr. Collins seconded the motion and it passed unanimously.

2010-016429 and 2010-018979, Manny N. Pesco D/B/A Pesco Auctions, AU2959 and AB2164

Ms. Parson presented cases 2010-016429 and 2010-018979, Manny N. Pesco D/B/A Pesco Auctions, AU2959 and AB2164. The department filed an administrative complaint against the respondent on September 13, 2010. Mr. Pesco was not present and without counsel. The respondent has been charged with the violation of 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.*

Ms. Parson recommended that the Board to entertain a motion adopting the allegations of fact in conclusions of law in the complaint as those of the board.

Mr. D'Angelo motioned that the Board to entertain a motion adopting the allegations of fact in conclusions of law in the complaint as those of the board.

Mr. Dietrich seconded the motion and it passed unanimously.

Ms Parson recommended that the Chair entertain a motion to adopt the conclusions of law.

Mr. Collins motioned to adopt the conclusions of law.

Mr. D'Angelo seconded the motion and it passed unanimously.

Ms Parson recommended a fine of \$1000.00 plus costs at \$282.18 along with a reprimand on the respondent's license.

Mr. Dietrich motioned that the Board impose a fine of \$250.00 along with a reprimand on the respondent's license.

Mr. Collins seconded the motion and it passed unanimously.

#2010-023006 and 2010-024027, John Caballero and Caballero Auctions, AU3758 and AB2700

Ms. Parson presented cases #2010-023006 and 2010-024027, John Caballero and Caballero Auctions, AU3758 and AB2700. The department filed an administrative complaint against the respondent on August 23, 2010. The respondent has been charged with the violation of 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.* **and a violation of 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.* **Through a violation of 468.388 (4) F.S.** *Each auction must be conducted by an auctioneer who has an active license or by an apprentice who has an active apprentice auctioneer license and who has received prior written sponsor consent. Each auction must be conducted under the auspices of a licensed auction*

business. Any auctioneer or apprentice auctioneer conducting an auction, and any auction business under whose auspices such auction is held, shall be responsible for determining that any auctioneer, apprentice, or auction business with whom they are associated in conducting such auction has an active Florida auctioneer, apprentice, or auction business license.

Mr. D'Angelo motioned that the Board to entertain a motion adopting the allegations of fact in conclusions of law in the complaint as those of the board.

Mr. Collins seconded the motion and it passed unanimously.

Mr. Collins motioned that the Board impose a fine of \$2000.00 plus costs at \$187.79 and revocation of both of the respondent's licenses.

Mr. D'Angelo seconded the motion and it passed unanimously

DISCUSSION OF AUCTIONEER EXAMINATION – BUREAU OF EDUCATION & TESTING (B.E.T.)

B.E.T. Representative Alex Bosque addressed the Board regarding the high passing rate for the Auctioneer Examination.

Mr. Dietrich stated that he would be upset if the passing rate was lower and that the examination's high passing rate shows that it's a good examination that people understand and that it appears that schools are doing a good job of teaching the required material.

Mr. Bosque then stated that the Bureau of Education & Testing shares the same perspective. Mr. Bosque then pointed out to the Board that the examination has a sharp focus on Chapter 468, F.S. which in turn, translates to the Auctioneer's of Florida not being able to claim unfamiliarity to Chapter 468, F.S when they stand in front of the Board for whatever reason.

There was a brief discussion on implementing some form of continuing education requirements on auctioneer licenses sometime in the future.

There was a brief discussion on adding an "Ethics" portion to the examination.

Ms. Parson pointed out to the Board that there are no ethics standards provided by Chapter 468. F.S.

The Board thanked Mr. Bosque for his information and for attending the meeting.

Discussion on Recovery fund Issues

The Board discussed **Schneider's of Vero Beach** recovery fund request.

Ms. Patterson informed the Board that she believes that Schneider's of Vero Beach meets the requirements for recovery.

Mr. Moecker motioned to issue a final order to pay out from the recovery fund the maximum of \$50,000.00 to Schneider's of Vero Beach, Inc. against Cruz Inc. International, having met the statutory requirements for recovery.

Mr. Collins seconded the motion and it passed.

Mr. Dietrich opposed the motion.

OLD BUSINESS

There was no old business discussed.

BOARD MEMBER TRAINING

Board member training was provided at the request of Chair Moecker.

NEW BUSINESS

Forthcoming Dates for 2011
March 11, 2011 – Tampa, Florida
June 10, 2011 – South Florida

ADJOURNMENT

Motion: Mr. Dietrich moved to adjourn the meeting.

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

The meeting was adjourned at 1:50 pm.