

MINUTES OF THE STATE AUCTIONEERS COMMISSION
OHIO DEPARTMENT OF AGRICULTURE Seminar Room B
8995 E. MAIN STREET, REYNOLDSBURG, OH 43068
January 17, 2014

PRESENT:

Commissioner Bart Sheridan
Commissioner Doug Walton
Commissioner Richard Kruse
Commissioner Gary Cain

James Patterson, Assistant Attorney General
Donna Brinker Potter, Auctioneer Program Manager

Members of the Public:

Harry Grafton
David Jones, OAA
Maggie Beckmeyer, OAA
Peter Gehres, OAA Treasurer

Meeting called to order @ 9:29 am with the pledge of allegiance. Donna Potter called roll. All members of the commission are present. The public member position is vacant. Chairman Walton asked the commission to review the minutes from the last meeting. Commissioner Sheridan moved to accept the minutes as presented. Commissioner Kruse seconded. No further discussion noted. The motion to approve minutes was passed by an affirmative vote of all members. Chairman Walton made an adjustment to the meeting agenda. Per the request of Jim Patterson, the enforcement update was moved to the first item on the agenda.

Enforcement update was opened by Jim Patterson. He stated that the Department had revoked two licenses in December. The first case was in regard to John Woodring and for the failure to maintain his financial responsibility. The second case was Jolie Jane Paul. Mr. Patterson stated that this case was much more involved. He stated that the notice of hearing letter outlined 36 violations of the auction law which consisted of multiple violations of the same category. The violations fell into four different categories: 1. the chronic failure to have a written contract. In some cases, there was no contract. In others, it was incomplete or missing required language or signatures. In one case, she signed her name and the client's name to the contract. 2. There were a number of instances where the auctioneer failed to remit or timely account for funds. 3. The failure to have a proper escrow account. 4. The failure to properly secure her client's property. Based on the size and number of violations the department proposed to revoke the license. Both are final orders and appeal period has lapsed. Donna Potter stated that the department had rejoined the National Auctioneer Licensing Law Officials Association. She stated that she had participated in the January teleconference call. NALLOA would be participating at the NAA conference and show in July. Donna Potter stated that she would not be able to travel due to travel restrictions. Commissioner Sheridan asked if the commission could approve the funds for the travel. Donna Potter stated that due to out of state travel restrictions, it would not be possible. Peter Gehres asked if the OAA could pay for the travel. Donna Potter explained that it would not be proper under the Ohio Ethics Law. Commissioner Kruse clarified that it was not due to a lack of funding but due to a policy on out of state travel. Donna Potter stated that he was correct. She stated that many of the licensing boards in NALLOA have similar restrictions and in the past NALLOA has permitted those states to participate via conference call. Commissioner Sheridan asked if one of the commissioners could attend in her place. Donna Potter stated that it would be possible but she was unsure if they would have voting privileges. Donna Potter stated that the department was looking into drafting some language that would permit the department to deny or refuse to renew a license if they have failed to pay their civil penalties. She cited that there had been several licensees that had failed to pay the penalties levied against them. The new language would permit the department to take action. The second area the department was pursuing was drafting language that would permit the department to have jurisdiction over internet auctions when the internet auction was conducted in conjunction with a live auction. She cited that

in the past it has been very difficult when conducting an investigation to tell a complainant that although the auction was conducted with a live auction, the department lacked jurisdiction. It is often difficult to separate the two when determining damages as well. For the next item in her report, Ms. Potter reviewed the balances of the funds. She stated that the operating fund had a current balance of \$310,359.45; the education fund balance of \$241,300.45 with a remaining spending authority of \$6,288.56; and the recovery fund balance of \$1,194,149.62. She stated that she had a phone call with an inquiry from a licensee asking if the commission was considering creating a scholarship in David Schnaidt's name from the education fund. Donna Potter stated that she told the caller that she would pass the inquiry onto the commission. She said that if the commission wanted that it would be conceivable for them to create a scholarship for educational purposes but that it had to be specific. She gave the example of reimbursing x amount of dollars for the auction school expenses to be given to the person that scores the highest score of the apprentice exam or something similar to that. Commissioner Cain stated that at first blush, it was an attractive idea, but that it needed further consideration. Commissioner Sheridan asked where to draw the line. He stated that Richard Kiko Sr. was a former commissioner and should they consider doing the same for him? Donna Potter stated that they could create a memorial scholarship fund versus a fund in a specific person's name. Commissioner Sheridan stated that maybe it was an agenda item for the future. Commissioner Cain stated that it needed further examination. The final item in the enforcement update is that the license renewals for the coming year will be mailed out at the end of Feb. She stated that there would be 1900 licensees renewing this year.

The next item on the agenda is the verbal exam sheet. Chairman Walton stated that he had asked to have this added to the agenda. He said that he had sat through 3 or 4 of the verbal exams and he felt that a score of 51% should be a failing score. He felt that the requirements for passing the verbal exam should be raised to obtain a passing score. He stated that he realized that bid calling is only one part of the auction. He felt the passing score should be raised to 70-75%. He asked if the other commissioners agreed or if they felt they were opening a can of worms. Donna Potter stated that the specific requirements for the verbal exam are found in administrative code. She said that every five years the administrative rules undergo a rule review. The auction rules were due to be reviewed next year. She stated that the commission could work on this and have the changes ready for next year or they could work quicker. Jim Patterson stated that the score sheet is in the rules by appendix. The text only mentions that the commission shall administer the exam. He felt that it was not all that clear that the score sheet was a part of the rule. To be safe, it should be changed by rule. Chairman Walton stated that if the commission was going to continue to look at the apprentice license law, then it would be an appropriate time to look at the verbal score sheet. Commissioner Cain stated that with the apprentice license, they have kicked it around at different times. He stated that he believes that they all think something should be done. He stated that with the verbal exam they need to be professional. The chant itself is the icing on the cake. Donna Potter stated that Texas just recently did away with their associate auctioneer license. Commissioner Sheridan asked for a copy of the Texas law. He stated that he feels that 50% is low and that he agrees with Chairman Walton. Jim Patterson stated that if the commission believed it was appropriate to change the rules, the commission could recommend to the department that a rule be adopted to change the administrative rule to x% for the pass rate on the verbal exam. It was agreed that it was an issue the commission wished to pursue.

Commissioner Sheridan asked for an OAA update. Peter Gehres stated that he brought in a box of resource guides for the commission. He invited the commission and the public to attend the OAA Winter Convention. He stated that for 2014 the OAA was not going to be submitting an education fund request for the spring. He stated that they wanted to focus on the legislature and getting more involved at the statehouse. They are putting together a fall seminar for August 7th at ODA. He stated that their approach for 2015 was to be proactive not reactive. He stated that they want to address the online auction and apprentice issues. He also stated that the OAA would like to seek funding for research regarding the profession in Ohio. It was stated

that in past, under the Department of Commerce, there was a study completed. Commerce had hired OSU to do a study but it did not obtain the expected results. David Jones wanted to know if it was against the law to line up a sponsor prior to going to school. Donna Potter stated that no it was not illegal and in fact, it was a good idea.

Chairman Walton recessed the meeting for a 5 minute break at 10:22.

The meeting resumed. Donna Potter stated that January is Human Trafficking Awareness Month and that the Governor's Office asked all boards and commissions to participate. The commission watched two educational videos regarding Human Trafficking.

Chairman Walton asked for any other business before the commission. No further business was brought before the commission. Commissioner Cain moved to adjourn the meeting. Commissioner Kruse seconded. No further discussion noted. Meeting adjourned at 11:39 am by an affirmative vote of all members present.

Approved Chairman