



Alabama State Board of Auctioneers

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MINUTES

Board Meeting

July 21, 2015

The Alabama State Board of Auctioneers met on Tuesday, July 21, 2015 at the Board offices in Montgomery. Those in attendance were Mr. Ken Garner (Chair), Mr. Bryant Wood (Vice Chair), Mr. Bryan Knox (member), Mr. Erskine Valrie (member), Mr. Michael Langford (member), Ms. Christie Ray (member), and Mr. Pete Horton (member). Board member not in attendance was Mr. Keith Baldwin. The Board, consisting of a quorum, continued with a voting meeting. Also present were Mr. Keith Warren (Executive Director), Ms. Dana Billingsley (Board Counsel), Hope Paulene (Administrator), Mike James (Investigator) and Ms. Renee' Reames (Executive Secretary to Mr. Warren).

The meeting was called to order at 9:00 a.m.

The regularly scheduled meeting was advertised on the Board's web site, www.auctioneer.alabama.gov, and the Secretary of State's website, www.sos.state.al.us, in accordance with the Alabama Open Meetings Act. Mr. Garner welcomed those present at the meeting. The Pledge of Allegiance was recited by attendees and a word of prayer was given at the opening of the meeting. Mr. Warren gave the opening statement concerning Roberts Rules of Order and the Alabama Open Meetings Act.

The copy of the April 21, 2015 Board meeting minutes was submitted to the Board prior to the meeting for their review. Ms. Ray recommended that the minutes be corrected on page 3 to substitute the statement concerning panel participation with question and answer period. Mr. Knox made the motion to accept the April meeting minutes as corrected. The motion was seconded by Mr. Horton and unanimously approved by the Board.

Mr. Garner reported that Mr. Anthony Wingo had asked to appear before the Board and was present at the meeting. Ms. Billingsley reported that Mr. Wingo had signed a consent agreement in March, 2015 and a Final Order had been approved and issued by the Board. Mr. Wingo stated that he had paid half of the fine that had been assessed by the Board and that he was unable to make further payments due to financial hardship. The Board thanked Mr. Wingo for his interest to appear before the Board.

Mr. Warren presented the Executive Director's Report to include financial activities and fund balance as of June 30, 2015 (report is available for viewing in the Board's official Book of Minutes). Also included in his report were the total number of licensees and number of complaints received and closed. He reported that the application renewal season would begin in July and that the provider of web services allowed payments over the telephone. The Board indicated interest in pursuing over-the-counter (OTC) services to accept by telephone some payments types and disciplinary fines and these services would be performed by the Board's staff.

Mr. Warren reported on licensure activities to include number of applicants, and examination results (report is available for viewing in the Board's official Book of Minutes).

Mr. Warren reminded the Board that he was not authorized to amend the consent agreement with Mr. Anthony Wingo. The Board agreed to consider the matter after the current licensing renewal period.

Ms. Billingsley reported on questions she received recently from an auctioneer school and the Board agreed to consider these questions as future CE topics.

Mr. Warren asked for authorization to contact states that the Board had reciprocal agreements and discuss continuing education being part of their reciprocity agreement with the Board. Mr. Wood suggested that a bullet point list of state-specific CE requirements be created, along with an acknowledgement statement from the licensed auctioneer, concerning programs/topics required by one state and the same subject being required by another state, which would eliminate having to retake a course for state licensing. The Board also asked about gathering information from other states about licensing Internet companies. Mr. Knox made the motion to authorize Mr. Warren to contact reciprocity states about including continuing education in the reciprocity agreements. The motion was seconded by Mr. Langford and unanimously approved by the Board.

Ms. Billingsley presented the Legal Counsel Report. She presented a consent agreement signed by Paul Charpie, principal auctioneer for Rowe Auction and Sales, for the Board's approval. She stated that this agreement included a \$700 fine for violations, which Mr. Charpie had already paid. Mr. Horton made a motion to accept the consent agreement as presented. The motion was seconded by Mr. Valrie and unanimously approved by the Board.

Ms. Billingsley also presented a consent agreement signed by Randy Gosdin for the Board's approval. Mr. Warren reported that the agreement was received while the Administrative Hearing was being held; and was unaware that it had been received in the mail. Mr. Warren reminded the Board members that Mr. Gosdin did not appear at the hearing held in April. Mr. Wood made the motion to approve the Consent Agreement as presented that required a \$700 fine. The motion was seconded by Mr. Valrie and unanimously approved by the Board.

Ms. Billingsley reported on the outstanding fines from Tom Wieck, Conrad Green, Michael Roebuck and Brian Svencer. Mr. Wood made the motion to seek a court order to file a lien against Mr. Roebuck and Mr. Svencer. The motion was seconded by Mr. Knox and unanimously approved by the Board. Ms. Billingsley indicated that she has already been authorized to file for a lien against Mr. Green and the matter of Mr. Wieck had been deferred.

Mr. Warren reported that a Facebook account had been created for the Auctioneer Board, and more secure IT upgrades were being made and that he would continue to monitor the progress by ISD in developing a model database of another state board, before pursuing the Board's licensee database.

Mr. Warren reported that Board's Senate bill did not pass and the bill was not scheduled for the called Special Session of the Legislature. He reported that the bill would be presented for the 2016 Legislative Session. The Board discussed possible opposition and commented on Tennessee's and other states progress to change their statute.

Mr. Horton reported on the Education Committee activities and thanked Ms. Ray and Mr. Warren for organizing the upcoming continuing education program scheduled on September 10th. Ms. Ray reported that the CE program would be held at the Embassy Suites in Hoover (John Hawkins Parkway) and Mr. Mike Brandy would be speaking on UCC and Case Law.

Mr. Warren reported on behalf of the Examination Committee. He stated that the examination questions had been collected from the Board members and would be presented to Prov, and that he would coordinate reviewing the questions after they had been compiled by Prov.

Mr. Warren reported that there had been no action by the Rules Committee.

Mr. Garner called a recess of the Board's business meeting at 9:55 a.m. of the Board members to participate in an Administrative Hearing.

Mr. Garner reconvened the meeting at 10:01 a.m. for an Administrative Hearing concerning Mr. Mickey Kirkland. Judge Jerry Wood presided over the hearing and Mr. Kirkland was present at the hearing and without legal counsel. Following the hearing, Judge Wood adjourned the hearing at 10:56 a.m.

Following an approximate 15 minute break following the Administrative Hearing, Mr. Garner reconvened the business meeting at 11:10 a.m.

Ms. Billingsley recommended that the proposed new rule, Disciplinary Actions, be approved for publication. She reported that the new proposed rule included administrative fines for violations, which would not be less than \$500 and not more than \$2,500 for each violation. Ms. Ray made a motion to approve the proposed new rule as presented and publish for comments. The motion was seconded by Mr. Wood and unanimously approved by the Board.

Ms. Billingsley also recommended the approval of two affidavits that would be part of the application process. She explained that the affidavits outlined responsibilities and information for a sponsor and an apprentice. Mr. Wood made a motion to approve both the Sponsoring Auctioneer's Affidavit and the Apprentice Auctioneer's Affidavit as presented and publish for comments.

Mr. Garner reported that the Legal Services Contract would expire at the end of September, and he recommended the approval of the new contract effective October 1, 2015. Ms. Billingsley left the meeting and Mr. Garner explained that the contract would be effective through September 30, 2017, and included an increase from \$125 per hour to \$150 per hour, along with a cap in cost, which had been increased accordingly. Mr. Langford made the motion to approve the new Legal Services Contract as presented. The motion was seconded by Mr. Wood and unanimously approved by the Board. The Board commented on the attentive by Ms. Billingsley to the Board's business and appreciation for her service. Ms. Billingsley returned to the business meeting.

Mr. Garner called a recess of the Board at 11:25 a.m. for an approximate 20 minute break.

Mr. Garner reconvened the meeting at 11:49 a.m.

Mr. Warren reported that the current Legal Services Contract that would expire September 30, 2015, had reached its compensation limits and currently one invoice was pending payment. He recommended that the current legal services contract be amended to \$35,000 and the cap be increased to \$57,000, accordingly, at the current hourly rate. Ms. Ray made a motion to approve the amendment to the current contract as presented. The motion was seconded by Mr. Valrie and unanimously approved by the Board.

Mr. Warren recommended, based on level of activities of the Board and the adjustment to the current legal services contract, that the new Legal Services Contract, effective October 1, 2015, be increased in compensation. Following a brief discussion, Mr. Langford made a motion to approve the new Legal Services Contract to include \$30,000 for consultation, \$2,500 for expenses and a cap of \$65,000, which is to become effective October 1, 2015. The motion was seconded by Mr. Wood and unanimously approved by the Board.

Mr. Warren reported that Governor Bentley had signed an Executive Order creating a new office of Alabama Office for Regulatory Oversight of Boards and Commissions. He explained that this was in light of the recent Supreme Court decision concerning North Carolina State Board of Dental Examiners for having engaged in anti-competitive activities in violation of the Sherman Act. He stated that more information would be available about this new office and Board oversight.

Mr. Garner reported that his term would expire in October. The Board discussed recommendations for appointment. Ms. Ray reported that some individuals at the recent Alabama Association meeting had indicated interest in serving on the Board and were going to submit their resume for consideration.

Ms. Billingsley provided an update to the Board members concerning their previous discussions about advertising auctions and having the auctioneer listed on the advertisement. She reported that the Board's statute, addressed the violation. She reported that Chapter §34-4-29(c)(12) indicated that failure by the auctioneer, conducting an auction, to show his or her name and state license number in the advertising of an auction, was grounds to suspend or revoke any license which had been issued.

The Board discussed attendance at the next regularly scheduled meeting in October. Ms. Billingsley reported that two Administrative Hearings may also be scheduled on the next Board meeting date. Based on some conflicts in scheduling, it was the consensus of the Board to change the meeting to October 13, 2015.

There was no further business and Mr. Wood made a motion to adjourn the meeting at 12:19 p.m. The motion was seconded by Mr. Horton and unanimously approved by the Board.

Respectfully Submitted,



Ken Garner
Chair



Keith E. Warren
Executive Director

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