

ALABAMA STATE BOARD OF AUCTIONEERS

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MINUTES Board Meeting January 6, 2011

The Alabama State Board of Auctioneers met on Thursday, January 6, 2011, at the Board offices in Montgomery for the purpose of conducting Board business. Those in attendance were as follows: Mr. Ken Garner, Chair; Mr. Bryant Wood, Vice Chair; Mr. Bryan Knox, Secretary/Treasurer; Mr. David Starnes, Member; Mr. Johnny Vetra, Member; and Mr. Michael Langford, Member. Board members Mr. Buddy Ray and Mr. Mark Lane were not in attendance. The Board, consisting of a quorum, continued with a voting meeting. Also present were Mr. Keith Warren, Executive Director; Ms. Dana Billingsley, Board Counsel; Ms. Hope Paulene, Executive Assistant; and Ms. Renee' Reames, Executive Assistant to Mr. Warren.

The meeting was called to order at 9:07 a.m.

The 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 requirements of the Alabama Open Meetings Act. Mr. Garner welcomed guests present at the meeting, including the past Board Chair, Mr. Tommy Barnes. Mr. Warren gave the opening statement concerning Roberts Rules of Order and the Alabama Open Meetings Act.

The minutes of the October 7, 2010 Board meeting were provided to the Members for their review. Mr. Wood made a motion to dispense with the reading of the minutes and to accept them as submitted. The motion was seconded by Mr. Vetra and unanimously approved by the Board.

The Board reviewed the Recommended Order submitted by the Administrative Law Judge ("ALJ") in the matter of Mr. Michael B. Stewart. Mr. Knox made a motion that the Board adjourn into Executive Session, for approximately 15 minutes, for the purpose of discussing the evidence presented during this contested case and the ALJ's Recommended Order. Mr. Wood seconded the motion, and Ms. Billingsley certified that the Executive Session could be called for this purpose, pursuant to ALA. CODE § 36-25A-7(9) (1975 as amended). The following roll call votes were recorded on the motion: Mr. Wood, aye; Mr. Starnes, aye; Mr. Knox, aye; Mr. Vetra, aye; Mr. Langford, aye; and Mr. Garner, aye. The Board adjourned into Executive Session at 9:17 a.m. By virtue of her role as prosecuting attorney on behalf of the Board in this matter, in accordance with the Alabama Administrative Procedure Act, Ms. Billingsley did not meet with the Board in Executive Session. The Board reconvened into regular session at 9:39 a.m.

Upon reconvening, Mr. Wood made a motion that Mr. Stewart's application for licensure as an auctioneer be denied and that he serve as an apprentice for one year under the sponsorship of his father, Mr. John Stewart; thereafter, contingent upon submittal of evidence that he successfully completed his Court Referral Program, Michael Stewart would be eligible to apply for a license as an auctioneer, and the application would then be reviewed by the entire Board. Ms. Billingsley informed the Board that it had the authority to grant or deny the application, but could not change the nature of the application before it. Mr. Wood then amended his original motion to accept the Recommended Order, as written, and deny Mr. Stewart's auctioneer application; provided, however, that the Board's final order include a provision encouraging Mr. Stewart to resubmit his application as an apprentice and, upon the successful completion of such application, to enter into a consent agreement with the Board, which would include, but not be limited to, the following stipulations:

- 1) For a period of one (1) year from the date of the final order, Mr. Stewart must pass all court-ordered drug testing and provide proof thereof to the Board.
- 2) There must be no evidence of further arrests, convictions or criminal conduct of any kind for one (1) year from the date of the final order.
- 3) If the court requirements are not satisfied and/or there are any further arrests, convictions or criminal conduct, Mr. Stewart must reappear before the Board for an administrative hearing regarding his licensure status.

The motion further provided that the Recommended Order be incorporated by reference into the Final Order of the Board. Mr. Starnes seconded the motion as amended, and the following roll call vote was recorded: Mr. Wood, aye; Mr. Starnes, aye; Mr. Knox, aye; Mr. Vetra, aye; Mr. Garner, abstained; Mr. Langford, abstained. The motion carried.

The Board next reviewed the Recommended Order submitted by the ALJ in the matter of Mr. Gregory D. Norred, which was carried over from the October 7, 2010 meeting, due to the recusal of Mr. Starnes and Mr. Knox, as members of the Investigative Committee assigned to this matter, and the resulting inability of the Board to convene a quorum of the Members eligible to vote in this matter. The Board established that a quorum was present, consisting of Members Mr. Vetra, Mr. Garner, Mr. Wood and Mr. Langford, and then recessed at 9:54 a.m. to allow Mr. Garner and Mr. Langford an opportunity to review the official transcript of the hearing, in accordance with ALA. CODE § 41-22-15 (1975 as amended), prior to consideration of the Recommended Order.

The Board reconvened at 10:03 a.m., at which time Mr. Wood made a motion that the Board adjourn into Executive Session, for approximately 10 minutes, for the purpose of discussing the evidence of record and the ALJ's Recommended Order in the matter of Mr. Gregory D. Norred. Mr. Vetra seconded the motion, and Ms. Billingsley certified that the Executive Session could be called for this purpose, pursuant to ALA. CODE § 36-25A-7(9) (1975 as amended). The following roll call votes were recorded on the motion: Mr. Wood, aye; Mr. Vetra, aye; Mr. Langford, aye; and Mr. Garner, aye. Mr. Starnes and Mr. Knox were recused. The Board adjourned into Executive Session at 10:05 a.m. By virtue of her role as prosecuting attorney on behalf of the Board in this matter, in accordance with the Alabama Administrative Procedure Act, Ms. Billingsley did not meet with the Board in Executive Session, and Mr. Starnes and Mr. Knox did not participate in the Board's deliberations. The Board reconvened into regular session at 10:15 a.m.

Upon reconvening, Mr. Vetra made a motion to accept the Recommended Order in the matter of Mr. Gregory D. Norred as written, revoking his Alabama auctioneer license, incorporating by reference the Recommended Order into the Final Order of the Board, and further including a provision that Mr. Norred is ineligible for consideration for re-licensure for a period of five (5) years from the date of the Board's Final Order, at which time such application must be considered by the entire Board. Mr. Langford seconded the motion, and the following roll call vote was recorded: Mr. Vetra, aye; Mr. Langford, aye;

Mr. Wood, aye; Mr. Garner, aye; Mr. Starnes, recused; Mr. Knox, recused. The motion was unanimously approved.

The Board recognized Mr. Tommy Barnes for his 12 years of service on the Alabama State Board of Auctioneers. On behalf of the Board, Mr. Warren presented Mr. Barnes with a plaque memorializing this accomplishment.

Mr. Knox reported on the combined Rules Committee meeting held on January 4, 2011, with members of the Alabama Auctioneers Association (“AAA”) to discuss suggested changes to the Board’s proposed legislation for 2011. Mr. Knox indicated that attorneys for the Board and the Association are reviewing the Committee’s recommendations, and it is the Committee’s intent to present a draft to the Board of the changes for its consideration and approval, to be included in a bill to be sponsored during this legislative session. Mr. Warren and the Board Members serving with the AAA members on the Rules Committee commented on the cooperative relationship between the Board and the AAA during this process.

Mr. Warren presented the Executive Director’s Report for the period ending December 31, 2010, to include the Executive Assistant’s Report. He reported that the 2011 budget was down from 2010, and the Board discussed anticipated revenues and expenses for 2011. The Board discussed whether it should continue to sponsor continuing education events, in view of the costs thereof, and cost-savings mechanisms for in-house speakers, training sites and co-sponsorship. The Board agreed that the Continuing Education Committee would consult with the Alabama Auctioneers Association and make a recommendation to the Board about sponsoring continuing education events in 2011.

Ms. Billingsley reported that the changes to Rule 150-X-1-.02 had been certified, as of December 3, 2010, with the Legislative Reference Service (“LRS”), in accordance with the Alabama Administrative Procedure Act and would become final thirty-five days (35) after certification to LRS, or by January 7, 2011.

Mr. Warren reported that he was working on a public notice to be published in the newspapers of general circulation in the counties affected by the actions taken by Mr. James Ray Sloan, Jr. and Grand View Antiques and Auction, regarding the disciplinary actions taken against Mr. Sloan by the Board.

Mr. Wood commented on the changes by the South Carolina Tax Board preventing the sale of vehicles at auction, unless the vehicle is owned by the auction company, and expressed his concern that similar requirements might be imposed on Alabama agencies. Mr. Warren reported that he reviews every proposed rule published for comment in the *Alabama Administrative Monthly* and monitors the Alabama Legislature’s website and indicated that he would notify the Board regarding any relevant matters.

The next regularly scheduled meeting of the Board is due to be held on April 7, 2011, at 9:00 a.m.

There being no further business, Mr. Wood made a motion to adjourn the meeting at 11:05 a.m. The motion was seconded by Mr. Vetra and unanimously approved by the Board.

Respectfully Submitted,



Ken Garner

Chair



Keith E. Warren
Executive Director