

# ALABAMA STATE BOARD OF AUCTIONEERS

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## MINUTES Board Meeting October 7, 2010

The Alabama State Board of Auctioneers met on Thursday, October 7, 2010, at the Board offices in Montgomery for the purpose of conducting Board business. Those in attendance were as follows: Mr. Ken Garner, Vice Chair, Mr. David Starnes, Member; Mr. Johnny Vetra, Member; Mr. Bryant Wood, Member; and Mr. Bryan Knox, Member. Mr. Tommy Barnes, Chair, Mr. Buddy Ray, Secretary, and Mr. Mark Lane, Member, 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; Mr. Carl Mike James, Board Investigator; and Ms. Renee' Reames, Executive Assistant to Mr. Warren.

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

The meeting was advertised on the Board's web site, [www.auctioneer.alabama.gov](http://www.auctioneer.alabama.gov), and the Secretary of State's website, [www.sos.state.al.us](http://www.sos.state.al.us), in accordance with the Alabama Open Meetings Act. Mr. Warren gave the opening statement concerning Roberts Rules of Order and the Alabama Open Meetings Act.

Mr. Garner deferred reading of the previous meeting minutes and instead, moved to new business in order for the Board to consider public comments regarding the proposed Rule revisions published in the Alabama Administrative Monthly. Mr. Garner accepted comments from the floor, which reflected concerns over some activities affecting the general public and encouraged strong enforcement of the Rules.

Mr. Knox reported on the Rules Committee meeting held on September 15, 2010. He indicated that public comments were considered by the Committee when drafting the proposed Rules, and the Committee felt that the Rule changes sufficiently addressed the concerns expressed in the public comments. A copy of a letter from the Alabama Auctioneers Association dated September 2, 2010, was distributed to the Board, along with a letter from Mr. Warren acknowledging receipt of those comments (see attached). Ms. Billingsley explained the process for Rule changes and submissions to the Legislative Reference Service. Mr. Knox then reviewed the changes to Rule 150-X-1-.02 for the Board's consideration. Other minor changes to the Rules were discussed. Further discussion was postponed until the conclusion of the Administrative Hearing appearing next on the Board's Agenda, which was scheduled to begin at 10:00 a.m.

At approximately 10:10 a.m., the Board entered into an Administrative Hearing regarding Mr. Michael B. Stewart, with the Honorable Matt Beam presiding as the Administrative Law Judge and Ms. Jeana Boggs serving as the Court Reporter. Mr. Beam indicated that he would have his recommendations concerning

Mr. Stewart to the Board for consideration at its January 7, 2011 meeting. The hearing concluded at approximately 11:15 a.m., and the Board took a short recess for lunch.

The Board meeting reconvened at 11:32 a.m. Mr. Garner called the meeting to order.

Mr. Knox made a motion to dispense with the reading of the minutes from the July 8, 2010 meeting and to accept them as submitted. The motion was seconded by Mr. Vetra and unanimously approved by the Board.

The Board reviewed and considered the Recommended Order submitted by the Administrative Law Judge concerning Mr. Rodney Settles. Mr. Vetra made a motion to amend the Administrative Law Judge's Recommended Order, revoking Mr. Settles' auctioneer license, to include the assessment of a five hundred dollar (\$500.00) fine, to defer Mr. Settles' eligibility for re-licensure for five (5) years, and to require him to appear before the Board, should he request to retake the licensing examination. The motion provided that the Recommended Order be incorporated by reference into the Final Order of the Board. The motion was seconded by Mr. Wood and unanimously approved by the Board.

The Board acknowledged the Recommended Order submitted by the Administrative Law Judge concerning Mr. Greg Norred, but noted that because Mr. Starnes and Mr. Knox were recused from participation in this matter, the Board members who were present and eligible to vote in this matter failed to constitute a quorum for purposes of conducting Board business. Accordingly, Mr. Garner postponed consideration of this matter until the next Board meeting.

Mr. Warren presented the Executive Director's Report, which also included the Executive Assistant's Report. The Board briefly discussed anticipated revenues and expenses for 2011, compared to the 2010 budget, but deferred further discussion until the next Board meeting.

Ms. Billingsley reported that the disciplinary fine assessed to Mr. Jim Sloan under his Consent Order with the Board has not been paid; neither has he surrendered his license, as required. An attempt to serve Mr. Sloan with such notice by mail proved unsuccessful; however, Mr. Sloan's attorney received those communications from Ms. Billingsley, as well as the Final Order of the Board. As permitted under the Consent Order, Mr. Wood made a motion to run a public notice on three (3) separate dates in the local newspaper in the county of record regarding the disciplinary action taken against Mr. Sloan and the surrender of his auctioneer license to the Board. The motion was seconded by Mr. Vetra and unanimously approved by the Board.

With regard to the review of applications for licensure, Ms. Billingsley commented on the respective responsibilities of the Executive Director and the Board in considering criminal activities in an applicant's background. The Board discussed adopting a policy whereby it would be responsible for reviewing applications beyond Mr. Warren's delegated authority to grant licenses evidencing no greater criminal activity than a DUI conviction and to then consider if the activities were grounds for a hearing. Mr. Wood made a motion that the Executive Director would seek, in writing from the applicant, an explanation of their criminal history, and Mr. Warren would present the reply to the Board for its review and consideration, prior to moving to an administrative hearing to consider the application. The motion was seconded by Mr. Knox and unanimously approved by the Board.

The Board discussed scheduling a Legislative Committee meeting prior to the next Board meeting and inviting members of the Alabama Auctioneers Association (AAA) to meet with the Committee prior to introducing any new legislation during the upcoming session of the Alabama Legislature in January. Mr. Vetra made the motion to authorize the Rules Committee to serve as the Legislative Committee and to invite members of AAA to serve in an advisory capacity on the Committee. The motion was seconded by Mr. Wood and unanimously approved by the Board.

Ms. Billingsley reported that the final changes adopted by the Board at the meeting to Rule 150-X-1-.02, Application for Auctioneer's License, would become effective 35 days after the changes were certified to the Legislative Reference Service. The Board discussed the provision in 150-X-1-.02(e) requiring notification to the Board when there is a change in the principal auctioneer of a business entity licensed by the Board, and agreed to require a thirty (30)-day notice of such change. Mr. Wood made a motion to accept proposed Rule 150-X-1-.02, with the noted corrections. The motion was seconded by Mr. Vetra and unanimously approved by the Board.

The proposed Board meeting calendar for 2011 was presented to the Board for approval. Mr. Wood made a motion to accept the calendar, as submitted (see attached). The motion was seconded by Mr. Vetra and unanimously approved by the Board.

Mr. Warren reported that Mr. James Michael Langford, who replaced Mr. Tommy Barnes on the Board, could not attend the meeting due to a conflict. He indicated that Mr. Langford's term was effective November 1, 2010, and that he may be sworn in by a local judge prior to the next Board meeting. Pursuant to Ala. Code § 34-4-50(c) (1975 as amended), which requires the Board to hold election of officers on the appointment of a new Board member, Mr. Garner opened the floor for nominations.

For Secretary/Treasurer, Mr. Vetra nominated Mr. Knox; Mr. Knox nominated Mr. Starnes. Mr. Vetra then made a motion to close the nominations for the office of Secretary/Treasurer. The motion was seconded by Mr. Wood and unanimously approved by the Board. Mr. Knox was unanimously elected Secretary/Treasurer.

For Vice Chairman, Mr. Garner nominated Mr. Wood, and Mr. Starnes nominated Mr. Garner. Mr. Knox made a motion to close the nominations for the office of Vice Chairman, which motion was seconded by Mr. Wood and unanimously approved by the Board. Mr. Wood was then unanimously elected as Vice Chairman.


For the office of Chairman, Mr. Wood nominated Mr. Garner. There were no other nominations, and Mr. Wood made a motion to close the nominations. The motion was seconded by Mr. Knox and unanimously approved by the Board. The Board then unanimously elected Mr. Garner as Chairman.

There being no further business, Mr. Knox made a motion to adjourn the meeting at 12:50 p.m. It was noted that the next meeting of the Board would be on January 6, 2011, at 9:00 a.m. The motion to adjourn was seconded by Mr. Wood and unanimously approved by the Board.

Respectfully Submitted,



Ken Garner, Chair



Keith E. Warren, Executive Director

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