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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF AUCTIONEER EXAMINERS
VIA VIDEOCONFERENCE**

TIME: 10:32 a.m.

Monday, November 8, 2021

State Board of Auctioneer Examiners
November 8, 2021

BOARD MEMBERS:

Nevin B. Rentzel, Chairman, Professional Member
Sherman E. Hostetter Jr., Professional Member
K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs
Gerald A. Rader, Professional Member
Daniel A. Trace, Secretary, Professional Member
Heather M. Troutman, Consumer Protection Agent

BUREAU PERSONNEL:

Jason E. McMurry, Esquire, Board Counsel
Carolyn A. DeLaurentis, Deputy Chief Counsel,
Prosecution Division
J. Karl Geschwindt, Esquire, Board Prosecution
Liaison
Colby B. Widdowson, Esquire, Board Prosecutor
Terrie Kocher, Board Administrator
Andrew LaFratte, MPA, Executive Policy Specialist,
Department of State
Adrienne R. McClendon, Law Clerk/Legal Analyst,
Department of State

ALSO PRESENT:

George A. Michak, Esquire, Michak Legal
Terry Von Nieda, Director of the Central Chapter,
Pennsylvania Auctioneers Association

1 ***

2 State Board of Auctioneer Examiners

3 November 8, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 the Board entered into executive Session with Jason
7 E. McMurry, Esquire, Board Counsel, for the purpose
8 of conducting quasi-judicial deliberations and to
9 receive legal advice on matters that are currently
10 pending before the Board. The Board returned to open
11 session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Auctioneer Examiners was held on Monday,
15 November 8, 2021. Nevin B. Rentzel, Chairman,
16 Professional Member, called the meeting to order at
17 10:32 a.m.

18 ***

19 Meeting Instructions

20 [Terrie Kocher, Board Administrator, reminded
21 everyone that the meeting was being recorded, and
22 voluntary participation constitutes consent to be
23 recorded.]

24 She also provided instructions to be followed
25 during the virtual meeting.]

1 13, give their consent by saying aye.

2 Opposed, nay?

3 [The motion carried unanimously.]

4 ***

5 Report of Prosecutorial Division

6 [J. Karl Geschwindt, Esquire, Board Prosecution

7 Liaison, presented the Consent Agreement for Case No.

8 18-64-00930 and Case No. 19-64-013372.]

9 ***

10 Report of Board Counsel

11 [Jason E. McMurry, Esquire, Board Counsel, noted that

12 the Board met in Executive Session prior to this

13 meeting to conduct quasi-judicial deliberations and

14 to discuss items 2, 3, 4, 5, and 8 on the agenda.]

15 MR. MCMURRY:

16 The Chair would like to entertain a
17 motion to adopt the Consent Agreement
18 listed as number 2 on the agenda at
19 Case No. 18-64-00930.

20 CHAIRMAN RENTZEL:

21 Is there a motion to adopt?

22 MR. RADER:

23 So moved.

24 CHAIRMAN RENTZEL:

25 Second?

1 MR. TRACE:

2 Second.

3 CHAIRMAN RENTZEL:

4 Any questions? All those in favor of
5 adoption, give their consent by saying
6 aye. Opposed, nay?

7 [The motion carried unanimously. The licensee's name
8 is Neal Leon Lugashi.]

9 ***

10 MR. MCMURRY:

11 Moving on to number 3 on the agenda,
12 the Chair would entertain a motion to
13 adopt the Consent Agreement presented
14 by prosecution at Case No. 19-64-
15 013372.

16 CHAIRMAN RENTZEL:

17 Is there a motion to adopt this one?

18 MR. HOSTETTER:

19 So moved.

20 MR. TRACE:

21 Second.

22 CHAIRMAN RENTZEL:

23 Any questions? All those in favor,
24 give their consent by saying aye.
25 Opposed, nay?

1 [The motion carried unanimously. The licensee's name
2 is Ronald David Tursovsky.]

3 ***

4 MR. MCMURRY:

5 Number 4 on the Board's agenda, R A
6 Arner Auctioneer LLC and Karen E.
7 Arner- Moyer, Case Nos. 17-64-011068,
8 17-64-011150, 17-64-011454 & 17-64-
9 012346.

10 The Board met in Executive Session
11 to discuss this matter, and at this
12 point, the Chair would entertain a
13 motion to grant the Motion to Deem
14 Facts Admitted and direct Board counsel
15 to draft an Adjudication and Order
16 consistent with those discussions.

17 MR. RADER:

18 So moved.

19 MR. HOSTETTER:

20 Second.

21 CHAIRMAN RENTZEL:

22 Any discussion or questions? All those
23 in favor, give their consent by saying
24 aye. Opposed, nay?

25 [The motion carried unanimously.]

1 ***

2 MR. MCMURRY:

3 In regard to number 5 on the agenda, an
4 Appeal of the Commonwealth Citation,
5 Behm's Auction and Real Estate Services
6 LLC, Case No. 20-64-006008 for Citation
7 No. 56006. This is an Appeal by the
8 Commonwealth to the Board of the
9 hearing examiner's dismissal of the
10 citation.

11 The Board reviewed the pleadings
12 filed in this matter, the complete file
13 regarding the citation, and the
14 transcript of the hearing.

15 At this point in time, the Chair
16 would entertain a motion to direct
17 Board counsel to issue an Order
18 dismissing the Commonwealth Appeal and
19 affirming the dismissal of the citation
20 of the hearing examiner?

21 MR. HOSTETTER:

22 So moved.

23 MR. RADER:

24 Second.

25 CHAIRMAN RENTZEL:

1 Any discussion? All those in favor of
2 adoption, give their consent by saying
3 aye. Opposed, nay?

4 [The motion carried unanimously.]

5 ***

6 MR. MCMURRY:

7 In regard to number 8 on the Board's
8 agenda, the Auctioneer Reciprocity
9 Application for Mr. Bakr, at this
10 point, the Board chair would entertain
11 a motion to approve that Application
12 for Reciprocity.

13 MR. HOSTETTER:

14 So moved.

15 CHAIRMAN RENTZEL:

16 Is there a motion to accept that
17 application?

18 MR. TRACE:

19 So moved.

20 MR. HOSTETTER:

21 Second.

22 CHAIRMAN RENTZEL:

23 Any discussion? If not, all those in
24 favor, give their consent by saying
25 aye. Opposed, nay?

1 [The motion carried unanimously.]

2

3 Report of Board Counsel - Regulations

4 [Jason E. McMurry, Esquire, Board Counsel, addressed
5 the proposed annex and preamble for 16A-6412
6 regarding licensure by endorsement under Act 41. He
7 noted regulation packages are being worked on for all
8 of the Bureau of Professional and Occupational
9 Affairs (BPOA) boards. He presented comments
10 questioning why both experience and/or passing a
11 skills examination are required. He addressed
12 discussions with Regulatory Counsel, where most
13 boards had either developed a skills examination,
14 already had one in place, or referenced the person's
15 previous experience but do not do both.

16 Mr. McMurry asked the Board whether it wanted to
17 use the skills examining route, experience, or some
18 combination of both.

19 Mr. McMurry addressed the regular path to
20 licensure as and the reciprocity path to licensure as
21 an auctioneer. He stated that Act 41 provided a
22 third path to licensure through endorsement in
23 Pennsylvania, where an applicant must be licensed in
24 good standing in another state that has parameters
25 substantially equivalent to Pennsylvania.

1 Mr. Hostetter commented that Act 41 would
2 eliminate any apprenticeship and any school. He
3 noted the Board had testing in place, but how the
4 applicant sat for that test is what Act 41 would
5 change.

6 Ms. Kocher explained the reciprocity process,
7 noting the exam is through Pearson VUE and is
8 specific to Pennsylvania. She wanted to make it
9 clear that somebody getting a license by reciprocity
10 does not have to take an exam. She noted that the
11 Board looks to see what the other state offers as
12 part of the exam.

13 Ms. Kocher further explained that during the
14 review process, the Board would consider whether the
15 applicant passed an exam in another state because
16 they would not qualify by reciprocity without showing
17 proof of passing an exam in another state.

18 Mr. McMurry asked whether there was a separate
19 skills examination that the Board was thinking of or
20 had in mind other than the licensure exam.

21 Mr. Hostetter stated that the Board already has
22 everything in place and did not see any reason to
23 weaken the system. He commented that someone could
24 go to a two-week school, reduce some of their time,
25 and in six months or so have a license. He mentioned

1 that either the applicant has the qualifications or
2 can take the test that is already in place.

3 Mr. McMurry explained that Act 41 is more along
4 the lines of reciprocity and was a little redundant,
5 but the Board had to pass regulations ordered by the
6 legislature. He noted that someone could come
7 through licensure directly and have to take the
8 Pennsylvania examination or through reciprocity by
9 showing experience and things from another state with
10 similar provisions in the law to Pennsylvania.

11 Mr. McMurry stated that Act 41 is a step below
12 that, where the Board would review their application
13 for endorsement and was basically the same as
14 reviewing reciprocity, reviewing the experience and
15 work to get licensed.

16 Ms. Kocher addressed nonresident changes in the
17 law. She explained that someone used to be able to
18 apply as a nonresident and would have to seek
19 approval to take the exam, but applying as a
20 nonresident is not an option anymore under the new
21 law.

22 Mr. McMurry asked whether there was another exam,
23 like a skills test, that the national association may
24 have that is not required now but may look to use for
25 Act 41 purposes.

1 Ms. Kocher noted the only exam in place is the
2 Pennsylvania exam administered by Pearson VUE.

3 Commissioner Johnson commented that the
4 distinction in that exam opposed to any other state
5 that has a skills exam would be the Pennsylvania law
6 and is a condition to practice in Pennsylvania. He
7 noted Act 41 has two components and addressed
8 substantial equivalence and competency portion. He
9 explained that the competency portion is how many
10 years of active practice someone has established in
11 that other state that makes them competent.

12 Commissioner Johnson noted that the core
13 education and training is part of substantial
14 equivalency of the two-prong determination. He
15 stated that substantial equivalency is where the
16 Board set forth at the beginning the states that are
17 substantially equivalent and offer a base platform
18 for the profession.

19 Commissioner Johnson stated that finding
20 jurisdictions that are not substantially equivalent
21 is acceptable under Act 41, but if the jurisdiction
22 is substantially equivalent, then, to Mr. McMurry's
23 point, what does the test now represent and is the
24 test going toward competency or toward something
25 else.

1 Commissioner Johnson commented that if the Board
2 decided that someone who has 5, 10, or 15 years of
3 experience and are coming from a non-reciprocity
4 state is substantially equivalent, then what is the
5 basis for denying the license now under Act 41.

6 Mr. Hostetter addressed nonlicensed states,
7 noting that the Board could still give someone a
8 license because of their experience or require a
9 test. He again mentioned the difference with Act 41
10 is there is no apprenticeship and no schooling and
11 the applicant just takes the test.

12 Commissioner Johnson asked whether the Board
13 identified the states that are not substantially
14 equivalent.

15 Mr. Hostetter noted the Board had not identified
16 states that are substantially equivalent because it
17 had not sent anything out for reciprocity, and unless
18 somebody from that state contacts the Board, the
19 Board would not know their requirements and
20 regulations.

21 Mr. Hostetter commented that the information may
22 be in the National Auctioneers Association's (NAA)
23 *Auctioneer* magazine or posted on their website
24 showing requirements of all 50 states, whether the
25 state is a licensed state or not.

1 Mr. Rader mentioned that the Board relies on both
2 the test and experience for reciprocity, and it would
3 be difficult to say one or the other would be the
4 cure for endorsement.

5 Mr. McMurry addressed the question from
6 regulatory counsel and requested clarification of
7 whether the Board wants both the exam and experience,
8 noting that most of the other boards chose whether
9 someone could pass the exam over whether the
10 applicant had experience. He requested clarification
11 in the preamble document, where it is written as "or"
12 and the annex regulation as "and" to demonstrate the
13 competency aspect.

14 Mr. McMurry stated that the Board must first
15 determine whether the standards for licensure are
16 substantially equivalent or exceed those adopted by
17 the Board and then determine a method of competency.
18 He addressed different ways to determine competency.

19 Mr. Hostetter addressed competency according to
20 Pennsylvania, where someone is required to have 2
21 years' experience and 30 auctions or the exam.

22 Mr. McMurry noted that Mr. Hostetter is saying
23 that the person is competent either by experience or
24 by taking the test and would not also be required to
25 take the test if the applicant had the experience.

1 George A. Michak, Esquire, Michak Legal,
2 addressed licensure in Pennsylvania. He stated that
3 typically somebody coming from a nonlicensed state
4 would take the exam and referred to what Mr.
5 Hostetter indicated earlier that historically there
6 would be a list of reciprocal states, and anyone on
7 that list would not be required to take the
8 examination but needed to show licensure in order to
9 obtain a license in the Commonwealth.

10 Mr. Michak noted two provisions in the act that
11 refer to coming in from another licensing state,
12 where Section 12 refers specifically to reciprocity
13 and does not even require a two-year period of
14 practice, but Section 3 references to coming in from
15 a licensing state with two years of practice.

16 Mr. Michak stated that licensure by endorsement
17 was intended to broaden the ability of individuals
18 coming to the Commonwealth from licensing
19 jurisdictions but the Board has amped it up and
20 requiring both instead of taking an either or
21 approach.

22 Commissioner Johnson commented that a lot of
23 boards do not have the framework the Board has in
24 terms of reciprocity and endorsement. He stated that
25 there has to be some formalization of the Act 41

1 language within the regulations. He mentioned that
2 the Board would not be doing anything functionally
3 any different than what it had already been doing.

4 Commissioner Johnson explained that someone under
5 Act 41 still has to have the minimum level of active
6 licensure, so if someone was coming in from another
7 state and the state was not substantially equivalent,
8 the Board would use Act 41 to make that
9 determination. He noted the Board would then consider
10 whether the state is a reciprocity state, and if it
11 is not a reciprocity state, then Act 41 does not even
12 become an option for that individual and may have to
13 take a test.

14 Commissioner Johnson commented that there would
15 not be a way for individuals to use Act 41 to try to
16 loophole the public safety requirements because the
17 Board already has a very robust statutory framework
18 to capture all of those individuals.

19 Mr. Rader noted previous Board counsel provided
20 framework for the 50 states as far as licensing or
21 non-licensing and requirements for reciprocity and
22 imagined the same guideline would be commensurate
23 with endorsement.

24 Mr. McMurry asked whether a person applying
25 through reciprocity is required to pass the PA exam.

1 Mr. Hostetter explained that someone would need
2 two years of experience and 30 auctions or would have
3 to take the test, so if the applicant came from
4 another licensed state and had been licensed less
5 than two years, the applicant would have to sit for
6 the test as well.

7 Mr. Michak referred to ambiguity in the statute,
8 where Section 12 of the Act does not include the two-
9 year provision, but Section 3 does reference two
10 years of practice. He noted there to be some
11 question as to whether that is just residual language
12 from the previous version of the act and whether or
13 not Section 12 with its lack of reference to two
14 years ought to be the controlling language.

15 Mr. Michak mentioned that there was a period of
16 time where individuals had been granted licensure by
17 reciprocity without two years of practice and then a
18 couple years ago the Board's thinking changed on that
19 and gravitated to the language in Section 3 rather
20 than relying exclusively on the language in Section
21 12.

22 Mr. Rader commented that the word "commensurate"
23 in the new rewrite made the Board redirect, so they
24 were comparing their state to the other state someone
25 is coming from.

1 Mr. McMurry asked the Board why it would require
2 a person coming in by endorsement to show the two
3 years of experience and also take the exam if it does
4 not require people applying for actual reciprocity,
5 which is in the statute, to take the exam to become
6 licensed. He noted it should be an "or" not an "and"
7 to make sure the Board is not making it harder for
8 people coming in through endorsement than it is for
9 people through reciprocity.

10 Mr. McMurry explained that endorsement is
11 broadening the scope of which states the Board can
12 look at because Act 41 says licensing jurisdictions.

13 He noted that Act 41 is giving a person from another
14 jurisdiction the same rights as Pennsylvania does for
15 other reciprocal areas. He commented that
16 reciprocity is experience or exam, not both, and Act
17 41 is experience or exam, not both.

18 Mr. McMurry referred to the annex under
19 requirements for issuance under licensure by
20 endorsement, where an applicant must satisfy all of
21 the following conditions: (1) have a current license,
22 certification, registration, or permit in good
23 standing to practice as an auctioneer in another
24 jurisdiction whose standards are substantially
25 equivalent or exceed those established under Section

1 3(e) and Section 5(e) of the act; (2) demonstrate
2 competency by experience in the practice of
3 auctioneering by demonstrating the applicant has
4 actively engaged in the practice of auctioneering in
5 the jurisdiction that issued the license for at least
6 two of the five years preceding the filing of the
7 application with the Board, achieve a passing score
8 in a Board-approved skills examination within the
9 five years immediately preceding the filing of the
10 application with the Board.

11 Mr. McMurry commented that Act 41 is expanding
12 the pool of applicants, and the Board is treating
13 them the same way as it does for reciprocity
14 applicants. He stated that the Board does not
15 require reciprocity applicants to take the
16 examination, and by making it read both, the Board
17 would be requiring the endorsement applicants to have
18 to take the examination and show the experience.

19 Chairman Rentzel commented that Mr. McMurry is
20 looking to change number (2) to "one of the
21 following."

22 Mr. McMurry recommended it to read, "Demonstrates
23 competency by one of the following or either of the
24 following." He also noted the point of the
25 discussion was to determine if there was a skills

1 examination available, which was determined to be the
2 Pennsylvania examination.]

3 CHAIRMAN RENTZEL:

4 Does anybody want to make a motion?

5 MR. HOSTETTER:

6 Okay.

7 CHAIRMAN RENTZEL:

8 One of the following. Motion made by
9 Sherm.

10 Do I hear a second to that?

11 MR. RADER:

12 I'll second that.

13 CHAIRMAN RENTZEL:

14 Seconded by Gerry. Any further
15 discussion? All those in favor, give
16 their consent by saying aye. Opposed?

17 [The motion carried. Mr. Trace opposed the motion.]

18 ***

19 Report of Board Chairman

20 [Nevin B. Rentzel, Chairman, Professional Member,
21 suggested postponing the public session on
22 regulations following the next meeting until the
23 public can join in person.]

24 ***

25 Report of Commissioner

1 [K. Kalonji Johnson, Commissioner, Bureau of
2 Professional and Occupational Affairs, thanked Board
3 members for making virtual meetings work. He noted
4 everyone would be in the current mode until March
5 2022, but he was working on ways to streamline the
6 communications. He mentioned working with
7 information technology (IT) staff to get onto a
8 platform and would keep the Board posted as that
9 transition is made.

10 Commissioner Johnson addressed physical travel
11 for regional and national conventions. He mentioned
12 the amended Sunshine requirements, where the subject
13 of travel must be on the public agenda, discussed,
14 and formally voted on before administrative approval.

15
16 Commissioner Johnson encouraged everyone to
17 advise Ms. Kocher of any conventions so it can be
18 placed on the next agenda. He mentioned the pre-
19 COVID limit of two Board members is back in place but
20 virtual options allow for as many members the Board
21 sees fit. He recommended everyone submit travel
22 requests early to ensure no one runs into supply
23 chain issues and difficulties procuring
24 accommodations.]

25

1 Report of Board Administrator - PAA Annual Conference
2 [Terrie Kocher, Board Administrator, asked whether
3 any Board members would like to attend the
4 Pennsylvania Auctioneers Association (PAA) Conference
5 January 11-14, 2022. Mr. Hostetter noted he and Dan
6 Trace would be attending.]

7 CHAIRMAN RENTZEL:

8 Do I hear a motion for Dan and Sherm to
9 have their expenses paid as in the
10 past?

11 MR. RADER:

12 So moved.

13 COMMISSIONER JOHNSON:

14 Second.

15 CHAIRMAN RENTZEL:

16 Any discussion? All those in favor,
17 give their consent by saying aye.
18 Opposed, nay?

19 [The motion carried unanimously.]

20 ***

21 Report of Board Administrator - Election of 2022
22 Officers - Chairman and Secretary

23 MR. HOSTETTER:

24 I make a motion that we retain Nevin
25 Rentzel as chairman and nominate Dan

1 Trace as secretary.

2 COMMISSIONER JOHNSON:

3 Second.

4 CHAIRMAN RENTZEL:

5 Any discussion? All those in favor,
6 give their consent by saying aye. Any
7 opposed?

8 [The motion carried unanimously.]

9 ***

10 [Sherman E. Hostetter Jr., Professional Member,
11 thanked Ms. Troutman for doing a fantastic job and
12 all of her time on the Board.

13 Mr. Hostetter requested an update concerning
14 Board member and public member vacancies.

15 Commissioner Johnson stated that the department
16 is actively working on addressing those concerns, but
17 public members remain elusive. He is expecting to
18 hear some news back this week with regard to those
19 prospects and would have information for the next
20 Board meeting.]

21 ***

22 Miscellaneous

23 [Nevin B. Rentzel, Chairman, Professional Member,
24 noted 2022 Board meeting dates are scheduled for
25 January 10, March 14, May 9, July 11, September 12,

1 and November 14.]

2 ***

3 Adjournment

4 CHAIRMAN RENTZEL:

5 Do I hear a motion to adjourn?

6 MR. RADER:

7 So moved.

8 MR. TRACE:

9 Second.

10 CHAIRMAN RENTZEL:

11 All in favor, give their consent by
12 saying aye.

13 [The motion carried unanimously.]

14 ***

15 [There being no further business, the State Board of
16 Auctioneer Examiners Meeting adjourned at 11:54 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Auctioneer Examiners meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Auctioneers meeting.



Amber Garbinski,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX

November 8, 2021

TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:32	Official Call to Order
10:32	Introduction of Board Members
10:33	Introduction of Attendees
10:35	Approval of Minutes
10:36	Report of Prosecutorial Division
10:38	Report of Board Counsel
11:44	Report of Board Chair
11:45	Report of Commissioner
11:48	Report of Board Administrator
11:53	Miscellaneous
11:54	Adjournment